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ABSTRACT

Four units on legal education for high school social studies courses in Milwaukee schools are presented. Unit 1 briefly considers the nature of law in a democratic society. Using fictional situations, group activities, and diagrams, students examine the social contract, the pervasive nature of law in everyday life, and the sources of laws. In Unit 2, the goals of law in a free society are explored through activities which focus on air pollution, consumer rights, civil liberties, and the Bill of Rights. Students research recent civil rights legislation and examine race and sex discrimination. Unit 3 consists solely of transparency masters which outline the structure of the American legal system. Charts trace a bill through the legislative process and outline pretrial and trial procedures. In Unit 4, students compile data from local newspapers on types of crime committed and draw conclusions from several charts reprinted from the annual report of the Milwaukee police department. Students also debate capital punishment and simulate a conference on keeping order and a parole board. Background readings for teachers outline the need for law in society, how the law develops and works, the Bill of Rights, and individual civil liberties. A chart identifying subject areas in which legal concepts can be incorporated is included. (KC)

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LAW AND ME

A Resource Guide for Social Studies Teachers

in

Milwaukee Public High Schools

January, 1983

Department of Elementary and Secondary Education

Division of Curriculum and Instruction

Milwaukee Public Schools

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FOREWORD

The Milwaukee Public Schools have been on the "cutting edge" of legal education for more than a decade. In 1972 the system received a grant from the Law Enforcement Assistance Administration to develop and implement the "Justice and You" program in all of our high schools. As a result of these efforts, more than 600 students across the city are now enrolled in a one year elective course in law. The quality of this program was recognized by the American Bar Association when they asked for permission to distribute nationally the Teacher's Guide for this high school course. In 1975 a Law Satellite Center was initiated and implemented at the downtown Junior Achievement Demmer Center. This program has subsequently been incorporated into the "Legal and Protective Services Specialty Program" at West Division High School. Students who wish to focus on a law related career field can now pursue a four year program of preparation at West Division. This program has been in operation since September, 1977.

In August of 1982 the Board of School Directors adopted a resolution that called for the establisnment of a city-wide "Law and Me" program during the 1982-83 school year. (See Appendix I.) While the intent of this resolution is to bring the matter of legal rights and responsibilities to the attention of all students Kindergarten - Grade 12, it will also provide the impetus to update the on-going curriculum with respect to law related education. Legal concepts can and should be incorporated into almost every social studies course we offer. It is the hope of the authors of this document that the 1982-83 "Law and Me" program will signal the beginning of this effort that will continue in the years ahead.

The authors hope that the teaching/learning episodes provided in this guide will help students to reflect on the appropriateness of their day-to-day behavior at home, in school, and in other places. It is further hoped that this unit of study on law will encourage students to use rational processes to begin the development of a viable "Personal Code of Conduct."

The document which follows should provide the reader with insight into the Board resolution, some background information on law, a number of teaching/learning exercises on law, some information on resources that are available for law related education, and a list of ways to incorporate legal concepts into the standard curriculum. It is hoped that it will further the cause of law related education in the Milwaukee Public Schools.

A.H.R.
1982

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A. TEACHING/LEARNING EXERCISES ON LAW

The following teaching/learning exercises should provide the social studies teacher with ideas and materials for teaching a unit on law at some point in the 1982-83 school year. This may be accomplished by teaching a full unit on law at one time, or by inserting one exercise per day over a longer period of time. In preparing for their lessons on law teachers should find it helpful to refer to appropriate chapters from the text on law which begins on page 64.

UNIT #1 NATURE OF LAW IN A DEMOCRATIC SOCIETY

Directions For the Teacher

INTRODUCTION

Law has been defined as the method used by society to manage its affairs. Giving structure to the workings of society and the actions of its citizens, law is called upon to solve complex human problems. Too many young people when confronted with the term "law" think of the man or woman with a blue uniform who comes with a nightstick. Too many youngsters think of the law as an oppressive monster only too eager to tell them to "stop" doing something. The purpose of this first unit is to help students to examine the true nature of law in a democratic society.

Exercise #1 - ISOLATED

The purpose of the first exercise is to help students to recognize that rules/laws are needed to govern behavior and assure cooperation in most social settings. Distribute a copy of this reading to each student and ask them to spend a few minutes studying the incident. One of two options might be pursued:

a. Divide the class into small groups and have each class member role play himself/herself if they were to find themselves in a similar situation. Students then decide how they would deal with the problem.

b. Open the class to discussion as to what steps the children in the story should take to ensure survival.

Both options "a" and "b" above should elicit the following points:

— that some form of society would have to be created

— societies are characterized by ordered activity

— rules, laws, and policies are necessary for the operation of society

— penalties should be created to fit the breach of a particular law

— procedures should be established to ensure fairness in not only establishing laws but determining guilt

— some members of society must be vested with authority

— rules should guarantee a fair share of responsibilities and should apply to everyone in the same way

Exercise #2 - ORDER vs FREEDOM

The second episode "Order vs Freedom" is designed to help students understand the nature of the "social contract" which is implicit in societal living. Students could work alone (at home or at school) or in small groups to formulate answers to the questions that follow the reading. Discuss these responses in a class setting.

Exercise #3 - MIND WALK

The goal of the "mind walk" activity is to alert students to the pervasive nature of law in our lives. The teacher is asked to slowly read the "mind walk" story aloud to the class. Students should be instructed to say "STOP," if they perceive a passage which pertains to law or legal process. Students are asked to identify what facet of law affects each passage that is law related. The parenthetical statements should provide teachers with the background information they will need for this exercise. Ask the class "What conclusion can we draw about law in our lives from this exercise?"

Exercise #4 - SOURCES OF LAW

Reproduce the diagram that forms the basis of the "Sources of Law" episode as an overhead transparency or a ditto handout. Then use this visual as the basis for a brief chalk talk on "Where Law Comes From in the American Society." The questions that follow can be used to further class discussion on this topic.

SUMMARY

Although limited in scope, the episodes that constitute the first unit should in truth help students to understand "The Nature of Law in American Society." Review the concepts found in each of these episodes and summarize so that the ideas relate to one another.

Student Material
Exercise #1

ISOLATED

At the start of World War II it became necessary to evacuate the dependents of British officers from the CBI (China-Burma-India) "theater of operations." At one base it was decided that children should be flown out in the first plane to leave. Wives were to be transported on a second flight a few days later.

While flying over the ocean the first aircraft developed engine trouble. Because of war time security, the pilot had to maintain "radio silence." He sent out no "SOS" or "May Day" call. Finally the aircraft lost all power and was forced to crash land on a remote island. The plane's crew in the front of the aircraft was killed in the crash. The children, however, survived the crash unhurt. Because of the war, normal search activities of the Civil Aeronautics Board and air control people could not be conducted. The plane's radio was destroyed when the plane hit the ground. Thus it appeared as if the group would have to remain on the plateau for some time.

The children decided to organize search parties to explore the island to see if they could get help. When these groups returned they reported that the island was uninhabited. One search party did find one large tank of drinking water and a warehouse holding a small supply of canned meat and numerous 100 lb. bags of flour. At one time the island had been used as a naval refueling station. It was also discovered that a large area on one end of the island was covered by vegetation.

What would these children need to do to survive for a long period of time?

Student Material
Exercise #2

ORDER vs FREEDOM

Think of what it would be like if people could do anything they wanted. Suppose you owned a nice digital watch or a gold necklace. You might be afraid to wear these items. Anyone walking down the sidewalk, who was bigger than you, could beat you up and take such possessions away. Such thieves might not have to be bigger or stronger than you. Not if they had weapons!

Long ago people came to recognize that one person's freedom should not allow him/her to harm another person or infringe on their rights. Thus, all of the people in a society agreed to abide by the rules of the group. Thus, by giving up certain of their freedoms they gained others. By giving up the "right" to harm another person or to take their property, they gained freedom from personal harm and the freedom to keep their own property.

It is this type of understanding that provides the foundation for all civilized societies. The "good" society is a place where you only give up a few of your freedoms to gain the order needed to live effectively.

Questions:

1. Why might the author have called the reading "Effective Societies Are Based on a Social Contract"? What would be the social contract?
2. What happens when only some of the people in a society follow the agreed upon rules? What usually happens if this takes place?
3. Why do some people say "law is the glue that holds a society together"?
4. It is often said that laws are based on moral, economic, or political values. Explain this statement.
5. Why is it important to understand that as societies change, laws frequently change too?

Teacher Material
Exercise #3

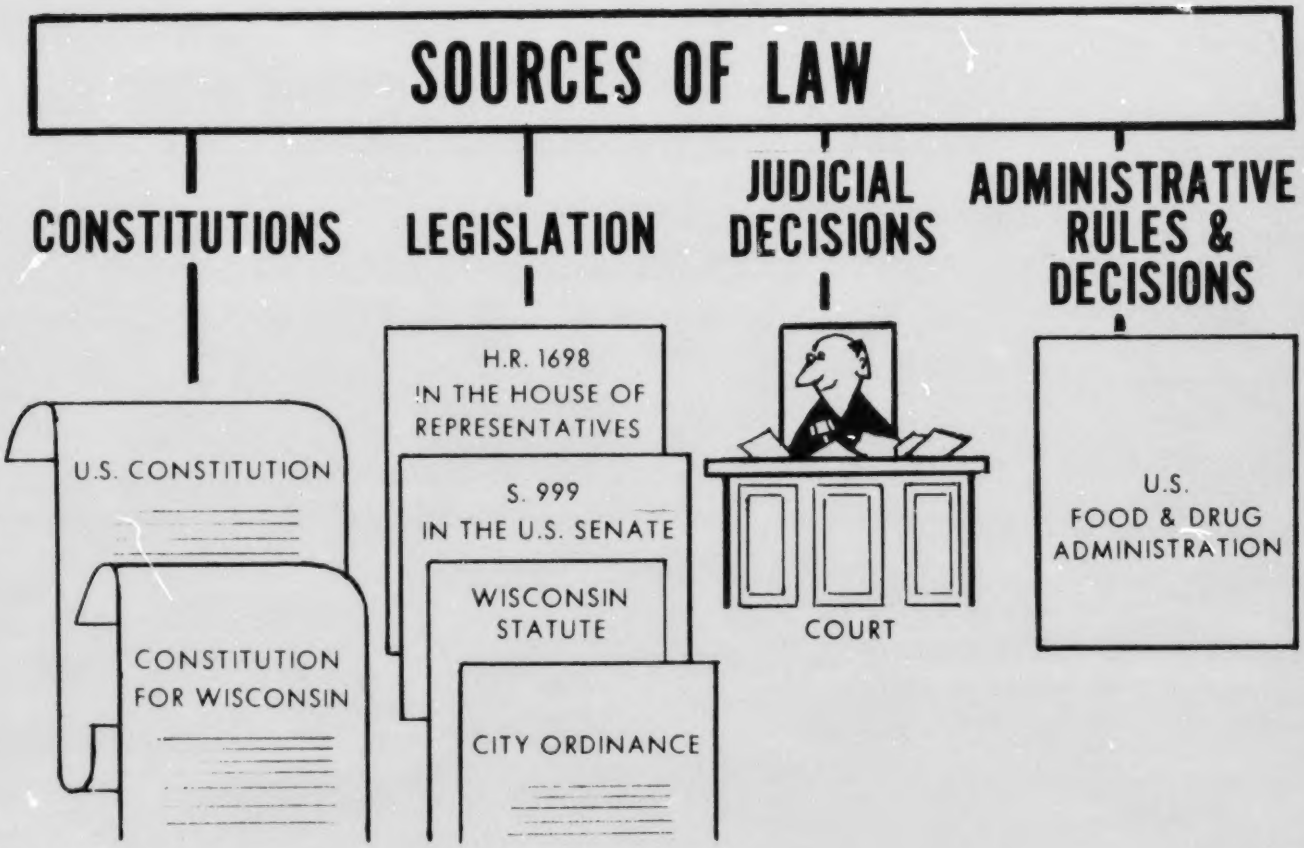
MIND-WALK

My name is George Wald. (Name is established by law - birth certificates - Register of Deeds - County.) I live at 4637 North 84th Street. (Location of residence is required for identification purposes - legal process.) I got up this morning at 6:30 A.M. (Time regulated by Federal law as to Pacific Time - Central Standard, etc.) I went into the bathroom and shaved. (Shaving instruments patented through law-manufactured under conditions governed by law.) I then dressed in my best suit. (Fabrics in suit manufactured according to legal specifications.) I proceeded to eat my cereal, eggs, bacon, and toast. (Regulations of Food and Drug Administrations and Agricultural Department - closely supervise the processing and grading of food.) Stopping outside, I took a gulp of fresh air. (Laws relating to air quality - Air Quality Act). I got into my car and turned on the ignition - (law relating to equipment in the car such as head restraints, pollution devices, and seat belts). Heading down the freeway, (freeway construction was completed according to government standards/also the property for "right-of-way" was acquired through legal processes). I turned on the radio. (Air waves are governed by regulations at the Federal Communication Commission - station operators must secure licenses to operate). Approaching speed of 55 miles per hour, (speed limits established by law - driver's license required by state law.) I got to work in twenty minutes. After putting in a busy morning's work, I had lunch in a nearby restaurant. (City Health Department makes periodic inspections of restaurants according to law.)

On my way back to work I purchased a newspaper from a newstand. (Vendor's license required by law; journalists subject to legal action if statements made about individuals in news stories are libelous.) I accidentally bumped into an elderly lady who fell down and broke her hip. (Lady can sue for money damages through negligence in a civil proceeding.)

Student Material
Exercise #4

SOURCES OF LAW



Questions:

1. Explain how each of the above could serve as a source for law in the United States.

2. How can each of the sources of law shown above relate to "social contract theory" described in one of the previous readings ("Order vs. Freedom").

3. Many teen-agers do not see law emerging from these sources. Where do many teens think the laws come from? Why is this unfortunate?

UNIT II THE GOALS OF LAW IN A FREE SOCIETY

Directions For the Teacher

INTRODUCTION

Too many citizens fail to understand the goals of law in a free society. All too often people think of laws as rules that restrict behavior. "You can't park here ...," "You cannot drive more than 55 miles per hour...," "You can't drink this...," etc. Yet law plays a much greater role in our lives than merely providing a few restrictions on our behavior. Through its provisions our health, welfare, safety, and personal property are protected. It provides just and equitable ways to settle disputes. The law also plays a significant role in guaranteeing our freedoms. The purpose of this unit is to help students come to understand some of the important goals of law in a free society.

Exercise #1 - NO POLLUTION OF THE AIR

Give each student a copy of "No Pollution of the Air." Explain that each student will be a judge who must render a decision on each case. Teachers may wish to divide their classes into groups of five judges with a simple majority sufficient to come to a decision which can range from an "Injunction" (a court order forbidding the continuance of an action) to "Not Guilty" or "Guilty." If "Guilty" the judges must also agree on an appropriate fine. (Fines range from $5.00 to $100.00.)

Exercise #2 - I WANT MY MONEY BACK

After having students read the story titled "I Want My Money Back" (Exercise #2) have them see if they can suggest other solutions to the list provided. Then have students work independently to rank at least three alternative lines of action they would take to resolve the problem presented. Tabulate the results to determine the sequence of activities that most students would follow in a similar situation. Discussion and questioning could elicit the following steps in solving a consumer problem:

1. A program of self-help could be initiated. First, one should attempt to settle the problems with the merchant. Before embarking on this course of action, full documentation of the transaction is necessary. This documentation includes receipts, cancelled checks, any advertisement, and a contract, if any.
2. If the seller refuses to take action, and the buyer feels that his/her complaint is justified, she/he could send a letter to the "Ask the Journal" column of the Milwaukee Journal. This might bring results. A letter to the public affairs division of the local television stations could be another option. (Carbon copies of such letters should be sent to the seller and may spur him/her into action in order to avoid publicity.)
3. An appropriate third step might involve the assistance of private agencies. The Better Business Bureau investigates complaints sent to it. (Such complaints should contain complete information. The Bureau has been highly successful in resolving consumer complaints.)
4. Assuming no affirmative actions in the above steps, complaint letters can be sent to the following agencies:

   — Consumer Fraud Division
   Milwaukee County District Attorney Office

   — Consumer Protection Bureau, Trade Division
   Department of Agriculture (State)

— Federal Trade Commission

— Consumer Product Safety Commission

5. Finally, the acquisition of an attorney might be appropriate to begin a civil or criminal action.

Exercise #3 - CIVIL LIBERTIES AND THE BILL OF RIGHTS

Thus far we have seen how society seeks to provide for the "common good" through the passage and application of appropriate laws ("No Pollution of the Air") and the settlement of disputes ("I Want My Money Back"). Our society also tries to provide equal opportunities for all citizens. Protecting civil rights then is another major goal of our legal system. This activity is designed to assist students in obtaining a practical understanding of their basic constitutional rights. It may be used as an in-class or homework assignment.

First have the class read and discuss the explanation of the Constitutional Amendments which affect civil liberties that appears on the first page of the reading. Then have them work independently to decide which amendment is applicable to each of the legal incidents described on the subsequent pages. Review this assignment "case by case" and help students to understand the correct answers.

Exercise #4 - LANDMARK CIVIL RIGHTS COURT DECISIONS

Have small groups of students engage in library research and report back to the class on the following landmark civil rights court cases:

(Background information is provided below for teacher reference only.)

Scott v Sandford (1857)
(Slavery and Citizenship)

Issue - Was a Black slave entitled to all the rights and privileges guaranteed by the Constitution after having entered a state that afforded these rights and privileges to its citizens?

Ruling - The court ruled that since the Black slave was not considered a citizen as stated in the Constitution, he, therefore, was not entitled to any of the rights and privileges claimed by citizens of the United States.

Plessy v Ferguson (1896)
(Separate but equal)

Issue - Were the Thirteenth and Fourteenth Amendments violated by the Louisiana Statute which provided "equal but separate" railway carriages for Whites and Blacks?

Ruling - The Supreme Court ruled that the Louisiana Statute did not violate the Thirteenth and Fourteenth Amendments.

Korematsu v United States (1944)
(Equal Protection)

Issue - Was the conviction of Korematsu, an American citizen of Japanese ancestry, for his refusal to move with other Japanese-Americans to a segregated area within the proper exercise of the War Powers?

Ruling - The court ruled that because of national security and other reasons, the action taken by the national government was within the proper exercise of the War Power.

Shelley v Kraemer (1948)
(Restrictive Covenants)

Issue - Did the enforcement of orders by state courts in St. Louis and Detroit which barred Blacks from holding real property in certain sections violate the equal protection clause?

Ruling - The court ruled that the orders by the state courts in St. Louis and Detroit violated the equal protection clause in the Fourteenth Amendment.

McLaurin v Oklahoma State Regents (1950)
(Equal Protection)

Issue - Was it legal for a state university to treat a Black graduate student differently from White graduate students primarily because of his race?

Ruling - The court ruled that the action taken by the university was illegal because it violated the equal protection clause in the Fourteenth Amendment.

Sweatt v Painter (1950)
(Equal Protection)

Issue - Did the University of Texas Law School violate the equal protection clause by denying a Black student admittance?

Ruling - The court ruled that the University of Texas Law School violated the Black student's right to equal protection of the law.

Brown et al v Board of Education of Topeka (1954)
(Separate but equal)

Issue - Were minority children deprived of equal educational opportunities by being forced to attend segregated schools that had physical facilities that appeared to be equal to those provided for majority children?

Ruling - The court ruled that separate educational facilities were inherently unequal; therefore, minority children were deprived of equal educational opportunities by attending segregated schools.

Gideon v Wainwright (1963)
(Right to Counsel)

Issue - In a case that did not involve a capital offense, should an indigent defendant be provided counsel?

Ruling - The court ruled that in order to assure a fair trial any person accused of a crime must be provided legal counsel if he/she were too poor to afford it.

Bakke v University of California (1978)
(Equal Protection)

Issue - Was Bakke unconstitutionally denied admission to the University of California Medical School at Davis because a number of places had been reserved for minority applicants with lower overall credentials?

Ruling - The court ruled that federal courts may force school districts to provide remedial programs for students who have attended illegally segregated schools in the past.

1. In class reports students should consider 1) the year of the ruling, 2) the issue at hand, 3) the ruling, and 4) the court's rationale for its decision.
2. Which cases advanced freedom and which did not (Not all landmark cases made civil rights progress)? What was the nation's immediate (and long term) reaction to this case?
3. Use a general discussion technique to draw from the class:
    a) The general trend in the court cases related to civil liberties
    b) How key court cases of this type can impact on many other cases since they establish "legal precedents"
    c) An explanation of how court cases serve as a source of laws related to freedom.

Exercise #5 - MAJOR RECENT CIVIL RIGHTS LAWS

1. Have individuals or small groups of students engage in library research to gain insight into the provisions of the following major Federal Civil Rights Laws:

   — Equal Pay Act of 1963
   — Civil Rights Act of 1964 (Amended in 1972)
   — Voting Rights Act of 1965 (Amended in 1970 and 1975)
   — Civil Rights Act of 1968
   — Age Discrimination in Employment Act of 1967 (Amended in 1978)
   — Title IX of the Education Act Amendments of 1972
   — Rehabilitation Act of 1973

   (Note to Teachers: All of these laws are explained on pp. 306-307 of Street Law: A Course in Practical Law. West Publishing Co., N.Y., N.Y. 1980.)

2. Have individuals or the chairperson of each group report their findings to the entire class. The report should include: 1) the conditions that led to the passage of this law, and 2) the benefits that resulted from this law.

3. Select a panel and conduct a debate to determine which of the above laws was the most significant development in the area of human rights.

A fourth, and perhaps the most readily recognizable function of law is to give direction to individual acts. People, who live in a society, need to know what they can do without infringing on the rights of others. In our society we have prescribed through law where one person's rights (for personal safety or for personal property) end and another's begin. A code of acceptable conduct has emerged over the years and part of this code is based on the acts that society has declared either legal or illegal. This function of law should be discussed in detail with students at this time so the concept is understood. However, explain that the in-depth consideration of criminal law (which is at the heart of the "Law and Me" program) will be deferred until after "The American Legal System In Action" unit when students have already studied about the structure of legal institutions (i.e., enforcement systems, judicial systems, etc.). Once students understand a) the nature of law, b) the function of law, and c) the structure of the legal system in the United States they should have the insights necessary to effectively examine the crucial matter of criminal law in contemporary America.

Student Material
Exercise #1

"NO POLLUTION OF THE AIR"

One purpose of law is to protect the health of the public. Many people feel that they should be able to go about their daily activities with no risk to their health. The government has agencies which control production and processing of most foods. They make sure that only bacteria-free foods will be purchased and eaten. Other agencies see to it that drinking water is clean and pure. In the city of New Guernsey the people wanted to be sure that the air they breathe was clean. They had a law passed which stated there should be NO POLLUTION OF THE AIR. The new law received much coverage in the city newspaper.

You are asked to play the part of a judge to rule on the following cases. Although the law appears to be clear, there are some questions as to how the law should be interpreted. You, as judge, will make a decision based on the facts of the case. You may rule guilty or not guilty. If guilty there can be fines ranging from $5.00 to $100.00. You could also demand that the polluter make corrections or stop those activities which lead to pollution. Interpret the law in each case as to what the law means. Does everyone benefit from the same rigid enforcement of the law?

Student Material
Exercise #1

CASES - "NO POLLUTION OF THE AIR"

1) The smokestacks of a factory have been giving off moderate amounts of light grey smoke. The factory owner explains that he can't afford to place pollution control devices in his operations. She explains that if forced to shut down, nearly 400 workers would be laid off their jobs.

2) A hospital has been detected giving off thick black smoke from its chimneys. It's discovered that the heating plant is burning a low quality coal. The director of the hospital explains that a railroad strike has cut off the supply of good coal from a distant western state.

3) A homeowner with three huge oak trees in his backyard accumulates a huge amount of fallen leaves. Every fall he burns the leaves so that they will not be blown all over the neighborhood by the wind. When questioned about his actions, the homeowner states that the leaves make up an unusually large quantity of garbage which would anger city workers.

4) A cook-out is to be planned by the Robinson family in celebration of their eldest son's high school graduation. Over thirty sirloin steaks are to be placed over the charcoal grill. Although somewhat smokey, the aroma of steaks being grilled makes one's mouth water.

5) A man is stopped by a pollution control officer on the freeway because of the billowy clouds of smoke coming from the tailpipe of his car. He states that he is aware of the law but his oil burning car is his only way of getting to work. In addition, he can't afford the $300 to get a "ring job" to correct the situation.

6) Some children are playing with non-explosive fireworks on the Fourth of July. A pollution-control officer stops them and tells them that the fireworks cause too much smoke. The children laugh, and continue to play with the fireworks saying they are celebrating their country's independence.

7) Some seventh graders are conducting a science experiment on the schools' athletic field. Part of the experiment consists of burning a small amount of chemicals. An officer stops them and tells them that they have violated the law.

8) A group of high school juniors want to have a bonfire for a high school homecoming. A number of old chairs, outhouses, logs, and branches have been collected. Shortly after the homecoming parade the fire is lighted. The class president is questioned about the event and replies, "We only do this once a year -- it can't hurt anything!"

Student Material
Exercise #2

"I WANT MY MONEY BACK"

The ad read "Sale/Portable Radio and Tape Deck - take it with you to the beach, park, or ball game - it's made to travel, $79.95." Fifteen year old Tom Burpee took part of his life savings and rushed to Farquad Department Store. After purchasing the radio, Tom decided to listen to it on the way home. The radio had nice tone, and could really "blast out" rock music. Several friends that he met complimented Tom on his new radio. But before he had gone three blocks, the radio broke away from the handle and dropped on the sidewalk. The case shattered, and the solid state parts were scattered over a large area. Tom couldn't believe it. It had been advertised as a portable, but the handle was too flimsy for the size of the "box."

Below are various steps that could be taken. You make the choice. Put a number before each line of action in the order you would follow. Hence, place a "1" by the first step you would take, a "2" by the second step, and so on. It is assumed that more than one step is necessary to correct the situation. You do not have to use all the items listed.

— Contact a T.V. station or newspaper

— Call the better Business Bureau (The Better Business Bureau is an organization of business people who help customers with problems. It does not charge for its services. It will speak for you when you have a complaint.)

— Do nothing and chalk it up to experience.

— Contact the District Attorney's Consumer Fraud Division (The Consumer Fraud Division is a service of the Milwaukee County District Attorney's Office. It provides a free service to the citizens of the county. Investigation and legal action could come from a citizen's complaint.)

— Contact the Consumer Product Safety Division (This division of the federal government provides a free service to citizens. Its main work is to see that products you use are safe. It has power to take action to cause a factory owner to make a safer product.)

— Try to straighten the matter out with the firm from which the radio was purchased.

— Call an attorney for advice.

— Let mom or dad settle the problem.

Student Material
Exercise #3

"CIVIL LIBERTY AND BILL OF RIGHTS"

The "Bill of Rights" consists of the first ten amendments to the United States Constitution. (An amendment is a change in law by adding, subtracting or substituting words or ideas.) When our Constitution was written in 1787, many Americans felt that it should specify the personal rights held by individuals so that they could not be eroded by a "power hungry" government. This was understandable in light of the prior actions of the British government.

These are the ideas stated in the Bill of Rights:

Amendment 1 -- Americans are guaranteed freedom of religion, freedom of speech, freedom of the press, the right of meeting peacefully in groups, and the right to ask the government to hear their complaints.

Amendment 2 — Each state has the right to keep its own militia.

Amendment 3 — Americans cannot be forced to keep soldiers in their homes without their permission.

Amendment 4 — Neither people nor their property may be searched unless the police have a search warrant. However, in an emergency situation, police may conduct a search without a search warrant.

Amendment 5 — A person does not have to witness against himself/herself (tell in court things which may help to prove him/her guilty); he/she may not be tried for the same crime more than once; his/her property may not be taken by the government without a fair amount of payment for it; (Due process of law).

Amendment 6 — A person accused of committing a crime has the right to a quick, public trial by jury. He/she may have a lawyer to defend him/her.

Amendment 7 — A trial by jury is permitted in any lawsuit involving more than $20.

Amendment 8 — There shall be no excessive bail, fines or cruel punishment.

Amendment 9 — Other rights not mentioned in the Constitution are left to the people.

Amendment 10 — Powers not given to the central government in the Constitution are left to the states and the people.

After the Civil War a number of so-called "Reconstruction Amendements" were added to the Constitution to further clarify the civil rights of emancipated Blacks.

Amendment 13 — Slavery prohibited.

Amendment 14 — Definition of citizenship. This amendment guarantees due process and equal protection of the laws against infringement by the states.

Amendment 15 — Black adult male citizens are given the right to vote.

In order to review some of the important ideas in the Bill of Rights and other Constitutional amendments, please read carefully the following statements. Think about each one and indicate the respective amendment under which it seems to fit.

_____ 1. The defendant was found guilty of extortion and was beaten unmercifully by guards while he was in prison.

_____ 2. The students held a protest rally on the school sidewalk before school started.

_____ 3. Sue was arrested for wearing a gun in public.

_____ 4. It has been reported that some Blacks are still being denied the right to vote.

_____ 5. Louise criticized the principal at the faculty meeting.

_____ 6. Linda's bail for petty larceny was set at $10,000.

_____ 7. The county "took" Ed's house to expand the freeway.

_____ 8. Wisconsin maintains an active National Guard.

_____ 9. Ken was expelled from school for wearing an ethnic arm ban that antagonized other students.

_____ 10. John was suspended for printing a true and controversial story about school rules ("All students must be present in the classroom one minute before the tardy bell").

_____ 11. The police officer had probable cause that there was stolen property in Jack's house and he searched it.

_____ 12. The poor man on the corner was accused of a serious crime, but he was unable to afford an attorney.

_____ 13. The judge denied Leon a jury trial in his civil suit, although there was a large sum of money involved.

_____ 14. In the United States, people may attend any church of their choice.

_____ 15. Peter was forced to testify against himself.

_____ 16. The Anti-abortionists marched peacefully around the White House.

_____ 17. Public schools may not require prayers in schools.

_____ 18. Newspapers can print any thing they want to print as long as it is not considered libeleous or slanderous.

_____ 19. John used profane language in a speech given as part of his class assignment.

_____ 20. Mr. Edgar was denied the right to see his attorney after he was arrested.

_____ 21. The judge changed the site of Luke's trial because of excessive media coverage (T.V. radio, newspaper).

_____ 22. Paul was tried twice for being disorderly and boisterous on March 17.

_____ 23. Andrew was kept in jail for two years before his trial was held.

_____ 24. Nicer's restaurant license was taken away after five different violations of the health codes.

_____ 25. Some people are forced to work long hours under conditions of servitude.

_____ 26. Beth filed a discrimination suit against the school that she was attending because she was denied the right to enroll in an industrial arts class.

_____ 27. Wisconsin has enacted certain laws to protect its citizens' health and safety.

_____ 28. In several southern states, certain minorities are being intimidated at polling places.

KEY

UNIT II THE GOALS OF LAW IN A FREE SOCIETY

1. 8th
2. 1st
3. 1st
4. 15th
5. 1st
6. 8th
7. 10th
8. 2nd
9. 1st
10. 1st
11. 4th
12. 6th
13. 7th
14. 1st
15. 5th
16. 1st
17. 1st
18. 1st
19. 1st
20. 6th
21. 1st
22. 5th
23. 6th
24. 10th
25. 13th
26. 14th
27. 10th
28. 14th and 15th

Student Material
Exercise #4

LANDMARK CIVIL RIGHTS COURT DECISIONS

Scott v Sandford

Plessy v Ferguson

Korematsu v United States

Shelley v Kraemer

McLaurin v Oklahoma State Regents

Sweatt v Painter

Brown et al v Board of Education of Topeka

Gideon v Wainwright

Bakke v University of California

Student Material
Exercise #5

MAJOR RECENT CIVIL RIGHTS LAWS

Equal Pay Act of 1963

Civil Rights Act of 1964 (Amended in 1972)

Voting Rights Act of 1965 (Amended in 1970 and 1975)

Civil Rights Act of 1968

Age Discrimination in Employment Act of 1967 (Amended in 1978)

Title IX of the Education Act Amendments of 1972

Rehabilitation Act of 1973

SUPPLEMENTARY ACTIVITIES FOR UNIT II

The following supplementary activities can provide some additional opportunities to learn about civil rights and the law. They are reprinted here from The Rights and Responsibilities of Citizenship In a Free Society with the permission of the Missouri Bar and the Missouri Department of Elementary and Secondary Education.

LAW AND SEX DISCRIMINATION

Cite an instance in which a woman has been discriminated against on the job or other situations. Students can contribute personal family experiences. Investigate how law has affected sex discrimination in recent years, and discuss the merits of such antidiscrimination law.

For guest speakers consider:

The League of Women voters

Business and Professional Womens Group

Someone from the American Association of University Women

A woman attorney

An employee from the Division of Employment Security, who is involved in job placement for women.

A school official who has responsibility to see that girl students or women faculty members are not discriminated against. (The district's federal funds are placed in jeopardy if the district allows discrimination based on sex.)

A speaker from the American Civil Liberties Union.

UNFAIR TREATMENT UNDER LAW

Students bring to class in writing examples of family experiences, observations, news articles in which they felt a person did not receive fair treatment by a court action, police officer, judge, government official, or fellow citizen. Following discussion have students, individually, in small groups, or as a class, attempt to fill in the chart below:

Shortcoming	Possible Causes	Likely Consequences	Proposed Remedy

RACIAL DISCRIMINATION AT THE FACTORY

Discrimination on the basis of race in the corporate setup has come under increasing scrutiny. By designing a fact situation based on an actual happening, the business teacher can delve into the possible ramifications of a "personnel problem" and its constitutional implications.

The case in the box below is an example of a fact situation that could be used for discussion:

> World Wide Wicket Company is a firm believer in "equal employment opportunities" for all races. Unfortunately, they employ a foreman at their Backwater, Missouri, plant who hates anyone who is not a WASP. His name is John B. Igot. Regardless of what the law says about the illegality of discrimination, he won't allow the government to force black people on him in his department.
>
> Since it would be a violation of company policy to refuse to take black people into his department who were sent by the personnel department, Igot used various ploys to get rid of them. First, he would give them the absolute minimum of training for their job so that their work would be poor and they wouldn't be retained after the probationary period. If they did make it past the probationary period, he would harrass them out the department by continually ridiculing and yelling at them for every little mistake they made. If that didn't work, Igot would give them frequent "warning notices" for substandard work so they could not get merit increases in wages or promotions.
>
> These ploys were obvious to Igot's supervisors, but he was an excellent foreman in other respects and his department was a good producer of Wickets. The supervisors lectured Igot on the necessity of mending his ways. Igot would always promise to change, but never did.
>
> Finally, the supervisors decided that the only way to keep Igot and still conform with the law and company policy was to transfer any blacks who were in Igot's department to another and not assign any more to his department. The blacks who were transferred did not like this idea and filed a complaint with the Equal Employment Opportunity Commission. The company defended their actions by claiming that their record of employing minority workers was better than that of any industry in the community or any company in the Wicket industry. Also, they claimed that their action was designed to keep the blacks from being discriminated against or harrassed. What should the Commission do?

In the actual case the Commission decided that the company must fire the foreman if he is unfit to supervise blacks (E.E.O.C. Decision No. 71-357). The policy of not assigning blacks to racially biased foreman keeps blacks out of certain jobs. The company cannot protect such biased foreman by not assigning blacks to their departments. Would you choose to tell your students of the Commission's decision? When?

UNIT III THE AMERICAN LEGAL SYSTEM IN ACTION

Directions For the Teacher

INTRODUCTION

The purpose of this unit is to give each student an overview of the structure of the American legal system.

Using This Exercise

Through the use of a "chalk talk" (with the transparency masters provided) teachers should discuss with the students the process through which civil and criminal cases proceed through the American legal system.

By looking at the key elements of the American legal system students will see that the need for law described in Unit I "The Nature of Law in a Democratic Society" and the goals of law described in Unit II "The Goals of Law In a Free Society" have led to the establishment of a system of persons and institutions which carry out critical tasks of the legal process.

(Prior to teaching this unit, teachers may want to further their own understanding of how the American legal system works by reviewing section IV of this publication "Law Background For Teachers.")

THE KEY ELEMENTS IN THE AMERICAN LEGAL SYSTEM

— Legislature

— Laws and Legal Questions

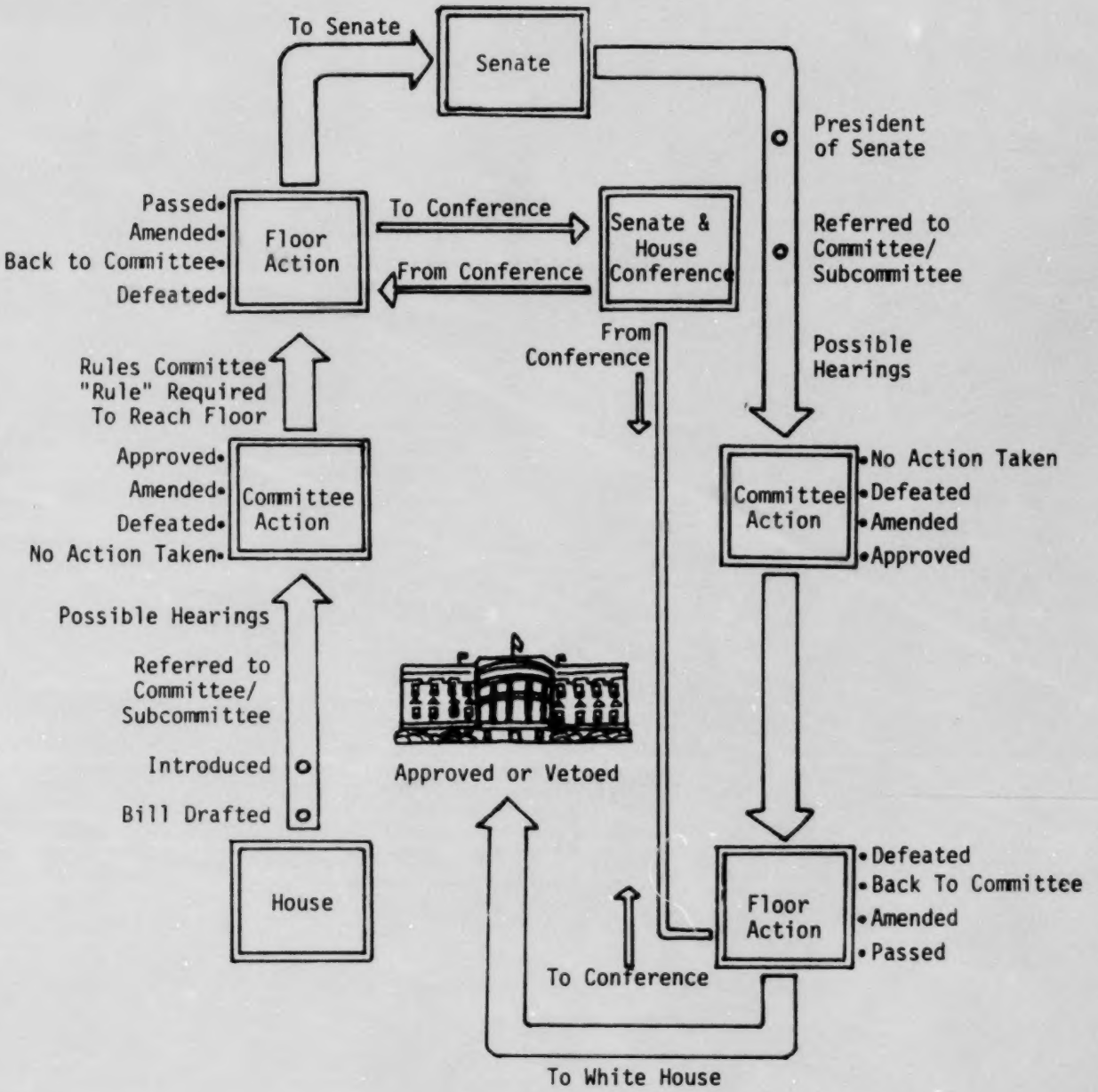
— Law Enforcement Agencies

— Judicial Branch of Government

— Lawyers

— The Courtroom Setting and Procedures

— The Jury



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AMERICAN LEGAL SYSTEM

CIVIL ACTION (PRETRIAL)

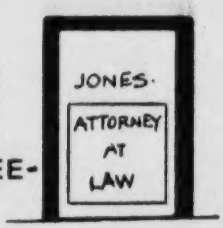
CITIZEN'S COMPLAINT (PLAINTIFF)

SUMMONS AND COMPLAINT (DEFENDANT)

OUTSIDE MEETING

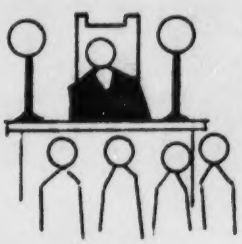
SETTLED

DISAGREE-MENT



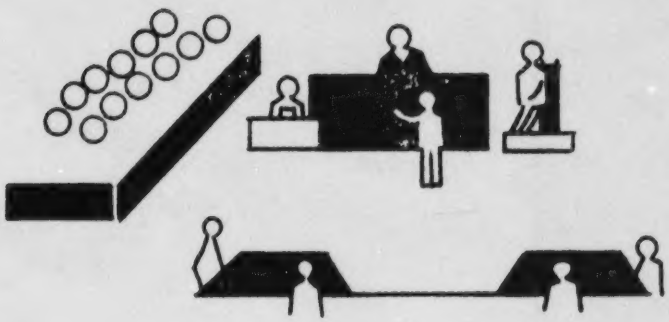
DISCOVERY PROCEEDINGS

PRETRIAL CONFERENCE



AMERICAN LEGAL SYSTEM

CIVIL ACTION (TRIAL)



JUDGEMENT OF DISMISSAL
(PLAINTIFF LOSES)

JUDGEMENT FOR PLAINTIFF
(PLAINTIFF WINS)

POSSIBLE APPEAL (LEGAL)

HIGHER COURT

AMERICAN LEGAL SYSTEM

CRIMINAL CASES
(PRETRIAL)

ARREST

BOOKING

DISTRICT ATTORNEY

NO COMPLAINT ISSUED

~~COMPLAINT~~

COMPLAINT ISSUED

COMPLAINT ISSUED

ARRAIGNMENT BEFORE A MAGISTRATE

PRELIMINARY HEARING

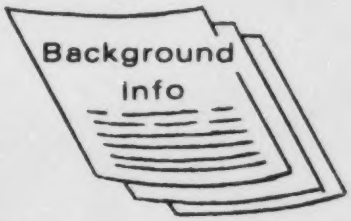
AMERICAN LEGAL SYSTEM

CRIMINAL CASE (TRIAL)

DEFENDANT IS GUILTY

DEFENDANT IS NOT GUILTY

PRESENTENCE INVESTIGATION



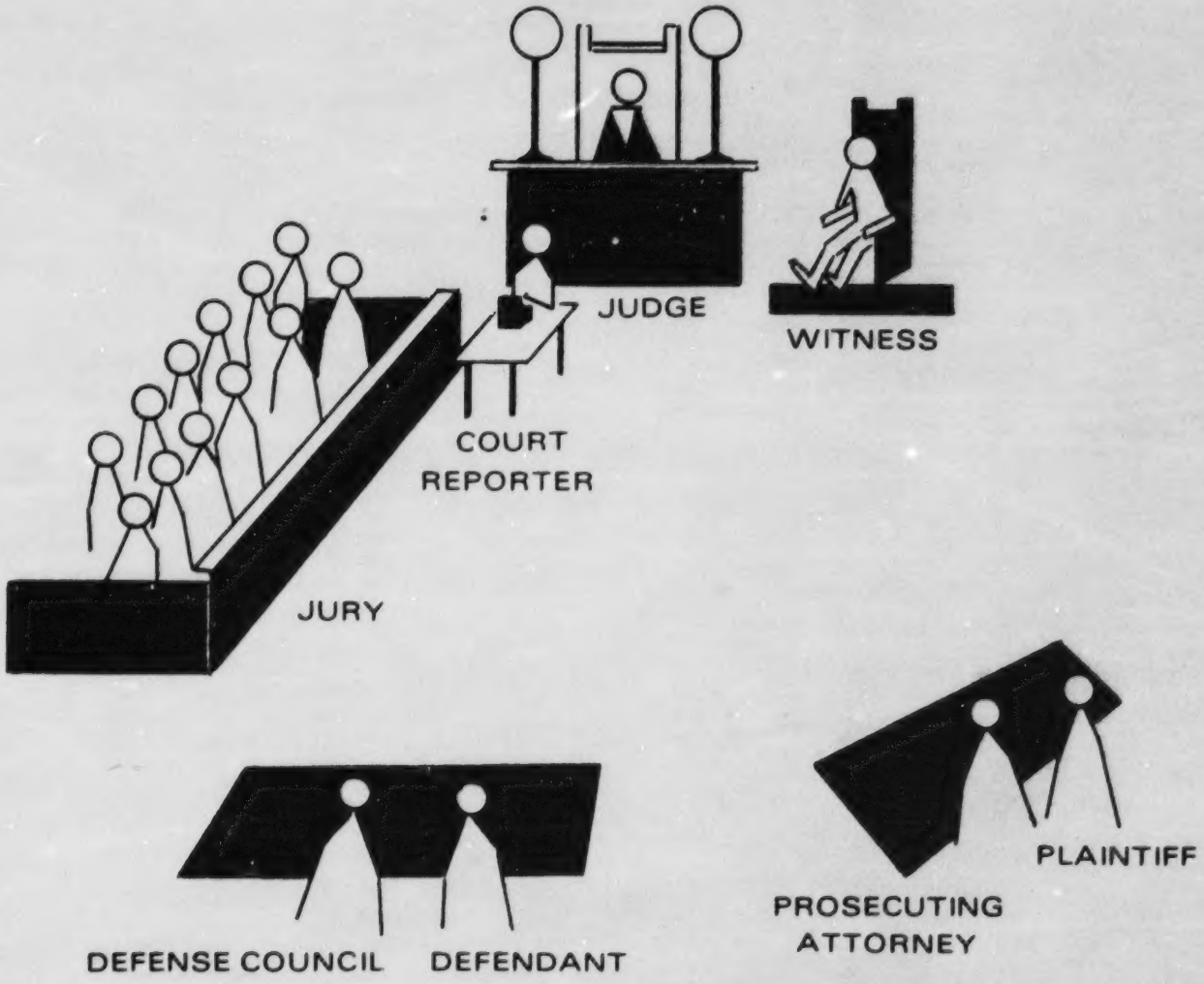
SENTENCING

JAIL - FINE - PROBATION

APPEAL (LEGAL)

TO HIGHER COURT

THE COURTROOM



UNIT IV CURRENT LEGAL CASE STUDIES

Directions For the Teacher

INTRODUCTION

The purpose of this final unit on "Current Legal Case Studies" is to provide young people with up-to-date, realistic insights into the legal problems facing Americans today.

Exercise #1 - LEGAL CASE STUDIES

Provide each student with a copy of the "Legal Case Studies" Worksheet (Exercise #1). Divide up the criminal acts listed in the left hand column among the students in the class. Have the students search old and current issues of the daily newspaper for stories which focus on the type of crimes listed, and bring these articles to class. (Students may find articles on other types of crimes not on the list. Allow them to bring these articles to class for possible discussion.) Once students have completed this "retrieval" aspect of the lesson, spend some class time clarifying the nature of each of the criminal acts (rather than the personalities involved) that appears on the list. Have the students practice their note taking skills by filling in the third column on the worksheet as the discussion progresses. As each case is being examined, try to have the students focus on the nature of the act. (Was it a crime against a person, property, society at large? What are the damages? Can restitution be made? How? etc.) The purpose this exercise is to have students get a realistic understanding of the nature of criminal acts and their impact on real people.

Exercise #2 - CRIME DATA BANK

This exercise relates to the "Crime Data Bank" reprinted from the Annual Report (1981) of the Milwaukee Police Department. Form committees of 4-6 students and give each group 2 or 3 sheets from this report. Have students study and discuss these pages. Then ask "What conclusions can we draw from this data?" Write all

of the responses you get on the chalkboard. Clarify each and then have the class rank order these findings in terms of their significance. Once the nature and frequency of criminal acts has been developed ask the class "What implications does all of this have for you and society?" (Personal suffering as a potential victim, societal costs or losses, costs and consequences of incarceration and/or rehabilitation, the problem of "living in fear," the impact on "freedom and justice for all," the negative impact crime and related matters have on criminals and their families.) At this point teachers may want to invite an officer, criminal lawyer, social worker, etc. into the class to discuss "the pervasiveness and impact of crime in our society today" or some similar topic.

Exercise #3 - BRAINSTORMING ON OUR FUTURE

The final portion of the lesson should engage the group in "brainstorming" on what the future of urban life will be if present trends continue. The students should also explore ways to reduce crime and vulnerability to criminal acts. Students might draw upon the ideas that emerge to prepare an auditorium program, a series of P.A. announcements, or several school newspaper articles on crime and crime prevention. Be sure to tie criminal acts (the violation of the rights of others) to the school setting by pointing out that your high school is a microcosm of American life — it is a small society in its own right. Have students discuss "ways to reduce crime at our school."

Student Material
Exercise #1

LEGAL CASE STUDIES

CRIME	DEFINITION	NOTES
Extorting	Using force or threats of harm to take someone's property illegally.	
Trespassing	An unlawful entrance upon the property, rights, etc. of another.	
Illegal use of drugs	Any unauthorized use of drugs.	
Disorderly and irresponsible conduct	Any willful act committed without lawful justification that disturbs the public peace.	

CRIME	DEFINITION	NOTES
Loitering	Wandering aimlessly in an area at an unauthorized time.	
Receiving stolen property	Knowingly accepting and keeping property acquired by theft.	
Fencing	Receiving and selling stolen goods.	
Forgery	Falsely making or materially altering any writing with the intent to defraud.	

CRIME	DEFINITION	NOTES
Reckless use of automobile	The careless use of a vehicle by a driver without regard for the safety of others.	
Carrying concealed weapons	Wearing and transporting a potentially dangerous instrument.	
Gambling	The illegal betting and wagering of money.	
Fraud	A deceitful practice or a device used by one person to deprive or take advantage of another person.	

CRIME	DEFINITION	NOTES
Hitchhiking on an interstate highway	Means to travel by walking and getting free rides from passing vehicles.	
Assault (threatening others)	An unlawful, intentional threat or attempt, with force, to do physical harm to another person.	
Speeding	To drive a vehicle faster than is safe or lawful.	
Driving without a proper license (car/cycle)	Operating a vehicle without driving credentials that are approved by the state.	

CRIME	DEFINITION	NOTES
Smoking in banned areas	Using cigarettes, cigars, pipes, etc. in any area prohibited by law.	
Inciting to riot	Using words or signs or any other means to create public alarm.	
Unlawful assembly	The gathering of three or more persons with the intent of carrying out an act that leads to a breach of the peace.	
Breach of promise and Breach of contract	Any unjustified failure to perform the terms of an agreement.	

CRIME	DEFINITION	NOTES
Murder	The unlawful, intentional killing of one person by another with malice aforethought, either expressed or implied.	
Robbery	The taking of property from another person by the use of force or by threat.	
Negligent homicide or Automobile homicide	A killing resulting from the careless operation of a passenger vehicle.	
Obscenity	Any openly offensive behavior that is specifically prohibited by law.	

CRIME	DEFINITION	NOTES
Flag desecration	The intentional burning or mutilating of the American flag.	
Obstructing justice	A conscious effort made by an individual to interfere with the proper functioning of the courts and law enforcement officials.	
Drunken driving	Operating a vehicle while under the influence of alcohol.	
Compounding a felony	To agree not to prosecute a criminal in return for a consideration.	

CRIME	DEFINITION	NOTES
Sexual assault	See Appendix II for State Statutory definition of this term.	
Other	Have students add other crimes that come to mind through research and/or class discussion.	

Student Material
Exercise #2

CRIME DATA BANK

MILWAUKEE POLICE DEPARTMENT

ANNUAL REPORT 1981

DISTRICT DATA & INDEX OF OFFENSES, TRAFFIC ACCIDENTS AND MISSING PERSONS BY DISTRICT

TRAFFIC ACCIDENTS

DISTRICTS	FATAL	INJURY	PROPERTY DAMAGE OVER $500	PROPERTY DAMAGE UNDER $500	TOTAL
FIRST	4	790	1562	915	3271
SECOND	8	832	1664	884	3388
THIRD	4	674	1207	769	2654
FOURTH	9	910	1521	757	3197
FIFTH	2	922	1564	849	3337
SIXTH	7	751	1365	875	2998
SEVENTH	8	1287	2076	1085	4456
TOTAL	**42**	**6166**	**10959**	**6134**	**23301**

NOTE: DOES NOT INCLUDE PRIVATE PROPERTY ACCIDENTS

PERSONS REPORTED MISSING

DISTRICTS	TOTAL	RETURN	ADULT MALE	ADULT FEMALE	JUVENILE MALE	JUVENILE FEMALE
FIRST	336	330	18	17	186	115
SECOND	716	701	29	23	281	383
THIRD	1010	987	49	31	572	358
FOURTH	757	744	34	32	286	405
FIFTH	939	918	52	35	336	516
SIXTH	611	596	32	27	251	301
SEVENTH	981	969	41	42	387	511
TOTAL AS OF DECEMBER 1981	5350	5245	255	207	2299	2589

REPORTED MISSING 5350
RETURNED OR LOCATED 5245
PENDING CASES 105

OFFENSES KNOWN TO POLICE

DISTRICT	TOTAL	HOM	RAPE	ROBB	AGG BATT	BURG	THEFT	AUTO THEFT	BATT	THEFT FR. AUTO	SEX OFF	CRIM DAM TO PROP	VICE	ALL OTHER
FIRST	11121	11	48	302	154	1151	2797	510	469	1895	115	1259	1548	884
SECOND	7859	10	18	140	158	947	1779	509	346	1521	155	1504	171	801
THIRD	10181	18	48	408	246	1476	2372	437	606	1601	108	1182	997	682
FOURTH	7905	2	14	129	86	1102	2363	352	295	1351	104	1206	105	796
FIFTH	10250	16	76	314	290	1801	2391	653	643	1594	135	1367	288	682
SIXTH	7303	2	18	126	109	872	1836	421	417	1242	166	1487	139	488
SEVENTH	12517	12	66	387	214	2944	2923	664	444	1847	131	1348	268	1267
TOTAL	**67116**	**71**	**290**	**1806**	**1257**	**10293**	**16461**	**3546**	**3220**	**11051**	**914**	**9333**	**3514**	**5380**

DISTRICT DATA

	1975 CENSUS	SQUARE MILEAGE	YEAR BUILT	CONSTRUCTION COST
FIRST	48,610	4.99	1971	$6,300,000
SECOND	93,736	15.35	1953	340,000
THIRD	70,618	7.97	1937	135,000
FOURTH	114,687	28.07	1984	345,686
FIFTH	91,305	7.96	1960	554,400
SIXTH	115,877	15.43	1927	85,248
SEVENTH	134,189	16.00	1981	1,390,715
TOTALS:	**669,022**	**95.77**		

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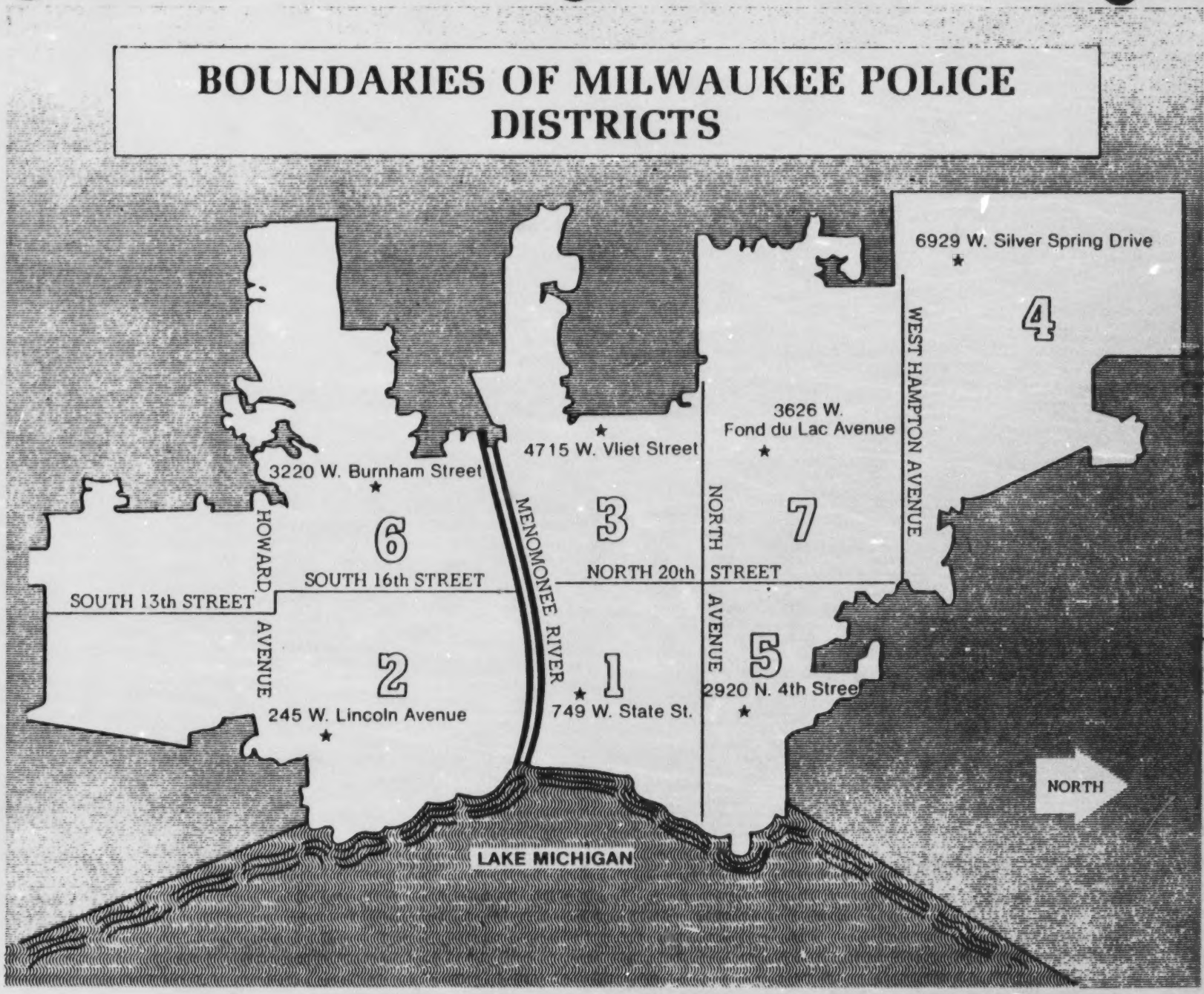
BOUNDARIES OF MILWAUKEE POLICE DISTRICTS



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FEDERAL BUREAU OF INVESTIGATION
UNIFORM CRIME REPORT
1981 PRELIMINARY ANNUAL RELEASE
MAJOR OFFENSES KNOWN TO POLICE

30 Cities Having Population Over 400,000 Per 1980 U.S. Census		Crime Index Total	Modified Crime Index Total	Murder	Forcible Rape	Robbery	Aggravated Assault	Burglary	Larceny Theft	Motor Vehicle Theft	Arson
1 New York, NY	1980	710,151	718,809	1,812	3,711	100,550	43,476	210,703	249,421	100,478	8,658
	1981	725,846	734,808	1,826	3,862	107,475	43,783	205,825	258,369	104,706	8,962
2 Chicago, IL	1980	196,605	198,521	863	1,329	16,261	10,205	34,288	102,873	30,786	1,916
	1981	173,316	175,495	877	1,255	16,118	7,359	30,112	88,197	29,398	2,179
3 Los Angeles, CA	1980	293,837	301,431	1,010	2,813	25,637	21,987	86,525	112,962	42,883	7,594
	1981	304,101	310,996	880	2,666	28,152	21,121	86,783	121,997	42,502	6,895
4 Philadelphia, PA	1980	101,144	101,412	436	937	10,883	5,043	24,940	40,910	17,995	268
	1981	100,592	100,896	362	936	10,816	5,502	26,876	39,731	16,569	304
**5 Houston, TX											
6 Detroit, MI	1980	127,420		547	1,313	13,429	7,999	40,848	41,066	22,218	*
	1981	143,107		502	1,229	14,797	6,648	46,224	46,186	27,521	*
7 Dallas, TX	1980	108,010	106,981	319	1,121	4,983	6,258	30,133	55,372	7,824	951
	1981	111,585	112,502	301	1,121	5,402	5,928	34,159	57,112	7,562	917
8 San Diego, CA	1980	70,505	70,935	103	362	2,986	2,738	19,960	36,649	7,707	430
	1981	66,122	66,607	93	559	3,323	2,618	18,708	33,851	6,970	485
9 Baltimore, MD	1980	76,704	77,480	218	560	10,020	5,775	17,659	36,854	5,820	776
	1981	77,563	78,380	228	565	10,715	6,229	18,448	36,068	5,314	817
10 San Antonio, TX	1980	57,873	58,451	164	362	1,742	1,997	17,776	31,228	4,804	578
	1981	62,035	62,574	185	376	1,835	2,255	20,080	32,411	4,893	539
11 Phoenix, AZ	1980	88,523	89,327	103	485	3,037	3,395	24,137	51,598	5,768	804
	1981	81,371	81,871	97	408	2,696	3,119	23,052	46,977	5,022	500
12 Indianapolis, IN	1980	37,220	37,568	107	410	2,193	1,743	10,074	18,906	3,787	348
	1981	33,898	34,090	65	400	2,194	1,880	9,986	16,782	2,592	192
13 San Francisco, CA	1980	70,424	70,902	110	759	7,527	4,314	16,795	32,772	8,147	478
	1981	71,812	72,242	126	672	7,386	3,827	17,715	35,337	6,749	430
14 Memphis, TN	1980	50,921	51,743	152	788	3,846	2,112	18,778	20,465	4,780	822
	1981	53,325	54,094	133	760	4,092	2,071	18,157	22,944	5,168	769
15 Washington, DC	1980	63,668	64,041	200	439	8,897	3,236	16,260	31,068	3,568	373
	1981	67,910	68,339	223	414	10,399	3,432	16,832	32,845	3,765	429
16. MILWAUKEE, WI	**1980**	**41,446**	**41,808**	**74**	**213**	**1,796**	**1,227**	**9,638**	**24,726**	**3,772**	**362**
	1981	**44,775**	**45,037**	**71**	**290**	**1,806**	**1,257**	**10,293**	**27,512**	**3,546**	**262**
17 San Jose, CA	1980	51,831	53,443	62	479	1,714	1,533	13,955	29,608	4,480	1,612
	1981	54,514	55,936	68	465	2,070	1,519	14,932	31,708	3,752	1,422
18 Cleveland, OH	1980	57,602	58,828	265	703	6,802	3,698	17,850	14,100	14,186	1,226
	1981	60,721	61,852	233	621	7,821	3,754	18,368	14,846	15,078	1,131
19 Boston, MA	1980	75,755		92	484	7,526	4,376	17,032	25,225	21,020	*
	1981	79,643		100	531	9,248	4,192	16,894	27,137	21,741	*
20 Columbus, OH	1980	55,382	55,747	87	460	3,224	1,359	17,100	29,809	3,323	385
	1981	55,293	55,906	91	396	3,356	1,420	17,518	29,613	2,899	613
21 New Orleans, LA	1980	53,575	53,773	218	588	4,647	2,719	14,154	25,668	5,581	198
	1981	52,158	52,419	217	453	4,950	2,501	13,117	25,305	5,615	261
22 Jacksonville, FL	1980	42,890	43,245	70	414	1,631	2,733	13,568	22,668	1,806	355
	1981	45,070	45,376	89	410	2,340	2,795	13,096	24,469	1,871	306
23 Seattle, WA	1980	53,294	53,620	63	512	2,253	2,373	13,780	30,483	3,830	326
	1981	55,764	56,066	59	485	2,344	2,526	14,567	32,835	2,948	302
24 Denver, CO	1980	58,782	59,399	99	704	2,366	2,351	19,799	28,206	5,257	617
	1981	60,417	61,063	100	471	2,403	2,111	20,181	30,467	4,684	646
25 St. Louis, MO	1980	64,631	65,081	225	392	5,938	4,428	20,184	27,043	6,421	450
	1981	62,654	63,097	265	413	5,365	4,321	19,214	27,195	5,881	443
26 Kansas City, MO	1980	49,274	49,998	132	518	2,889	3,474	15,210	23,231	3,820	724
	1981	51,005	51,518	115	429	3,235	3,935	14,839	24,690	3,762	513
27 Nashville, TN	1980	34,888		87	295	2,027	1,225	11,482	17,189	2,581	*
	1981	33,604		79	363	1,594	1,051	10,358	17,968	2,191	*
28 El Paso, TX	1980	27,065	27,833	54	218	828	1,711	6,267	15,624	2,363	768
	1981	29,275	29,833	35	205	871	2,399	7,140	16,568	2,057	558
29 Pittsburgh, PA	1980	30,399	31,016	50	299	3,252	1,519	8,997	10,721	5,561	617
	1981	31,384	31,802	49	213	4,288	1,433	8,843	11,861	4,897	418
30 Atlanta, GA	1980	59,394	59,715	201	671	4,733	5,470	16,812	27,502	4,005	321
	1981	60,589	60,849	182	644	4,507	5,246	17,458	28,966	3,566	280

*Less than 12 months arson received.

**[illegible] statistics not available at time of printing.

MURDER
24 Cities had more

RAPE
27 Cities had more

ROBBERIES
27 Cities had more

ASSAULTS
28 Cities had more

BURGLARIES
26 Cities had more

LARCENY
18 Cities had more

AUTO THEFTS
23 Cities had more

58

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MAJOR CRIMES — OFFENSES KNOWN TO THE POLICE

CLASSIFICATION OF OFFENSES	OFFENSES REPORTED	UNFOUNDED	ACTUAL OFFENSES	TOTAL OFFENSES CLEARED	OFFENSES CLEARED INVOLVING ONLY JUVENILES
CRIMINAL HOMICIDE					
a. Murder and Nonnegligent Homicide	76	5	71	64	1
b. Manslaughter by Negligence	0	0	0	0	0
FORCIBLE RAPE					
a. Rape by Force	241	3	238	125	9
b. Attempts	52	0	52	24	3
ROBBERY					
a. Firearm	825	38	787	406	59
b. Knife or Cutting Instrument	286	20	266	186	40
c. Other Dangerous Weapon	89	5	84	54	8
d. Strongarm	699	30	669	402	120
ASSAULT					
a. Firearm	963	11	952	455	60
b. Knife or Cutting Instrument	221	3	218	137	31
c. Other Dangerous Weapon	71	1	70	52	6
d. Hands, Fists, Feet, etc -Aggravated Injury	17	0	17	13	2
e. Other Assaults Simple Not Aggravated	3242	22	3220	1054	343
BURGLARY					
a. Forcible Entry	9534	19	9515	2247	752
b. Unlawful Entry - No Force	783	5	778	166	50
c. Attempted Forcible Entry	0	0	0	0	0
LARCENY - THEFT	27603	91	27512	2934	992
MOTOR VEHICLE THEFT					
a. Autos	2993	48	2945	417	174
b. Trucks and Buses	210	4	206	22	6
c. Snowmobiles	7	0	7	1	0
d. Motorcycles	376	0	376	29	14
e. Other Vehicles	14	2	12	2	0
GRAND TOTAL	**48302**	**307**	**47995**	**8790**	**2670**

ANNUAL REPORT OF ARRESTS
ADULT AND JUVENILE

CLASSIFICATION OF ARRESTS	TOTAL ARRESTS	CITY	STATE	MALE	FEMALE	JUVENILE	ADULT
Murder-Nonnegl. Mans.	97		97	87	10	8	89
Manslaughter by Negl.	5		5	3	2	1	4
Forcible Rape	161		161	159	2	17	144
Robbery	974		974	894	80	337	637
Aggravated Battery	724		724	635	89	153	571
Burglary	2069		2069	1976	93	1215	854
Theft (except auto)	6922	3295	3627	4775	2147	2234	4688
Auto Theft	587		587	535	52	385	202
Other Battery	2429	1220	1209	2047	382	662	1767
Forgery	233	1	232	140	93	31	202
Embezzlement and Fraud	764	326	438	512	252	75	689
Stolen Property	247		247	225	22	142	105
Weapons	1579	870	709	1366	213	370	1209
Prostitution	1359	179	1180	700	659	100	1259
Other Sex Offenses	381	34	347	367	14	130	251
Off. Against Fam. and Chld.	226	142	84	155	71	7	219
Narcotic Drug Laws	3710		3710	2895	815	850	2860
Liquor Laws	1044	552	492	741	303	466	578
Disorderly Conduct	8695	6940	1755	7568	1127	1323	7372
Vagrancy	0						
Gambling Laws	201	145	56	189	12	12	189
Driving w/Intoxicated	2570	1950	620	2336	234	37	2533
Curfew Ordinance	948	948		754	194	948	
Runaway Ordinance	1187		1187	638	549	1187	
Crim. Dam. to Property	1653	855	798	1463	190	557	1096
Arson	75		75	67	8	32	43
Miscellaneous	9569	5145	4424	7741	1828	1690	7879
TOTALS	**48409**	**22602**	**25807**	**38968**	**9441**	**12969**	**35440**

RECAP:

City Offense	22602
State and Miscellaneous Offenses	25807
Pedestrian Ordinance	4060
Parking Ordinance	644455
Car Key Ordinance	485
Other Moving Traffic Violations	47936
Equipment Violations	50837
Neglected Children	21
Dependent Children	311
TOTAL	**796514**

TRAFFIC BREAKDOWN

	ADULT	JUVENILE
Failure to Obey Signs and Signals	9085	395
Failure to Yield Right of Way	1752	86
Reckless Driving	370	42
Speeding	9562	324
Auto and Driver's License Laws	17546	1076
Other Moving Traffic	7121	577
TOTAL	**45436**	**2500**
TOTAL MOVING TRAFFIC		**47936**

VEHICLE THEFTS

CITY TOTALS		PLACE							HOW						MEANS						
MAKE OF AUTO	TOTAL	STREET	ALLEY	GARAGE & YARD	PARKING LOT	USED CAR LOT	OTHER	NOT STATED	FORCED DOOR	FORCED WINDOW	KEY	UNLOCKED	OTHER	NOT STATED	IGNITION OPEN	JUMPER WIRE	KEY IN IGNITION	TINFOIL	KEY CONCEALED	OTHER	NOT STATED
Chevrolet	557	293	25	66	143	5	24	1	1	3	82	41	135	295	7	5	80	0	6	164	295
Buick	379	206	15	58	67	4	28	1	1	2	49	23	97	207	5	0	45	1	3	118	207
Ford	656	324	36	96	157	8	35	0	2	7	66	31	202	348	8	9	61	0	6	223	349
Oldsmobile	276	136	12	38	70	2	18	0	2	0	45	9	71	149	0	2	37	0	2	86	149
Pontiac	234	118	13	32	47	1	23	0	0	2	38	10	63	121	2	0	27	0	4	80	121
Mercury	164	91	6	27	29	1	10	0	1	0	12	8	44	99	1	0	12	0	1	51	99
Dodge	158	91	2	20	36	2	7	0	0	3	23	11	39	82	1	1	26	0	2	46	82
AMC	119	56	1	22	33	0	6	1	1	0	16	11	22	69	1	2	17	0	1	29	69
Plymouth	128	73	4	13	31	0	7	0	0	1	20	7	29	71	0	1	19	0	2	35	71
Cadillac	181	100	5	22	39	4	11	0	0	1	19	9	51	101	2	0	16	0	2	60	101
Chrysler	87	52	2	9	18	0	6	0	0	1	12	7	26	41	0	0	14	0	0	32	41
Foreign	124	55	5	17	36	1	10	0	0	0	17	6	24	77	0	0	16	0	1	29	78
Other	122	50	5	19	33	1	12	2	0	0	13	9	29	71	3	0	14	0	0	34	71
Motorcycles	361	83	9	152	79	1	37	0	0	0	2	2	22	335	2	0	1	0	0	23	335
Totals	**3546**	**1728**	**140**	**591**	**818**	**30**	**234**	**5**	**8**	**20**	**414**	**184**	**854**	**2066**	**32**	**20**	**385**	**1**	**30**	**1010**	**2068**

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MOTOR VEHICLE TRAFFIC ACCIDENTS

TIME DISTRIBUTION OF TRAFFIC ACCIDENTS

TIME	TOTAL				MONDAY				TUESDAY				WEDNESDAY				THURSDAY				FRIDAY				SATURDAY				SUNDAY			
	Total	Ftl	P-I	P-D	Total	Ftl	P-I	P-D	Total	Ftl	P-I	P-D	Total	Ftl	P-I	P-D	Total	Ftl	P-I	P-D	Total	Ftl	P-I	P-D	Total	Ftl	P-I	P-D	Total	Ftl	P-I	P-D
12- 1 AM	772	2	252	518	80	1	21	38	74		20	54	70		19	51	96	1	36	59	104		39	65	197		72	125	171		45	126
1- 2	754	5	245	504	57		18	39	60		23	37	50		13	37	103	1	41	61	86	1	24	61	228	1	79	148	170	2	47	121
2- 3	811	1	282	528	58		17	41	55	1	18	36	58		16	42	101		35	66	94		43	51	287		103	184	158		50	108
3- 4	449	1	171	277	19		7	12	10		4	6	28		12	16	18		6	12	27		10	17	61		26	35	286	1	106	179
4- 5	171	1	54	116	16		5	11	9		4	5	9		7	2	14		1	13	11	1	5	5	26		6	20	86		26	60
5- 6	124		47	77	17		7	10	10		4	6	11		6	5	16		6	10	18		8	10	16		6	10	36		10	26
6- 7	328	2	110	216	44	1	17	26	68		19	49	55	1	18	36	58		21	37	47		17	30	23		8	15	33		10	23
7- 8	603		196	407	99		29	70	121		34	87	103		43	60	113		32	81	111		40	71	29		9	20	27		9	18
8- 9	521	1	192	328	77		26	51	85		33	52	87		33	54	119		40	79	87		34	53	39	1	15	23	27		11	16
9-10	469		162	307	61		23	38	62		25	37	61		22	39	98		34	62	91		27	64	54		16	38	44		15	29
10-11	603	1	219	383	73		28	45	72		21	51	82		27	55	94		35	59	111	1	44	66	106		48	58	65		16	49
11-12	709		247	462	93		29	64	87		29	58	110		37	73	127		51	76	131		44	87	102		41	61	59		16	43
12- 1 PM	897		340	557	116		50	66	123		41	82	128		50	78	135		44	91	156		60	96	153		62	91	86		33	53
1- 2	889	1	300	588	116		42	74	124		37	87	129		43	86	148	1	42	105	119		47	72	130		52	78	103		37	66
2- 3	960	2	379	579	170		68	102	106		38	68	151		64	87	157		51	106	147	1	63	83	132		56	76	97	1	39	57
3- 4	1276	4	536	736	214		77	137	187		91	96	169		72	97	220	2	89	129	225		93	132	147	2	62	83	114		52	62
4- 5	1272	3	509	760	193	1	81	111	190		83	107	220	1	87	132	175		76	99	255		88	167	128		55	73	111	1	39	71
5- 6	1003	1	422	580	177		69	108	116		51	65	137		56	81	162		69	93	208		80	128	112		55	57	91	1	42	48
6- 7	780		288	492	85		36	49	110		42	68	101		34	67	120		48	72	140		57	83	117		30	87	107		41	66
7- 8	702	2	264	436	95		32	63	76		28	48	116		43	73	106		40	66	127	1	48	78	98	1	37	60	84		36	48
8- 9	605	3	232	370	76	1	22	53	58		25	33	86	1	41	44	80		35	45	116		39	77	100		41	59	89	1	29	59
9-10	717	4	259	454	85		32	53	80		34	46	103	1	37	65	104		43	61	135	1	50	84	111	1	31	79	99	1	32	66
10-11	681	3	254	424	69	1	24	44	85		37	48	86		26	60	80		27	53	148		63	85	127	1	47	79	86	1	30	55
11-12	700	5	246	449	70		29	41	79		28	51	92	1	26	65	100	1	32	67	152	2	57	93	139	1	49	89	68		25	43
Not Stated	211		9	202	15		1	14	20		1	19	24			24	30		1	29	36		2	34	37		1	36	49		3	46
TOTAL	16987	42	6215	10730	2155	5	790	1360	2067	1	770	1296	2288	5	832	1429	2572	8	935	1631	2882	8	1082	1792	2699	8	1007	1684	2348	9	799	1538

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MOTOR VEHICLE TRAFFIC ACCIDENTS

AGE/SEX OF DRIVERS INVOLVED IN ALL ACCIDENTS

Driver Age	All Accidents Total	-M-	-F-	Fatal Total	-M-	-F-	Injury Total	-M-	-F-	Property Damage Total	-M-	-F-
15 and Younger	59	47	12				16	11	5	43	36	7
16	373	239	134	1	1		136	81	55	236	157	79
17	668	461	207	2	1	1	243	162	81	423	298	125
18-19	2092	1538	554	10	10		796	559	237	1286	969	317
20-24	5384	3766	1618	15	14	1	2233	1548	685	3136	2204	932
25-34	7531	5175	2356	12	9	3	3079	2085	994	4440	3081	1359
35-44	3448	2310	1138	6	4	2	1421	914	507	2021	1392	629
45-54	2538	1824	714	5	3	2	1018	695	323	1515	1126	389
55-64	2007	1407	600	2	2		772	532	240	1233	873	360
65-74	1073	765	308	3	3		431	305	126	639	457	182
75 and Older	430	317	113	2	2		174	120	54	254	195	59
Not Stated	2835	2805	30	3	3		508	494	14	2324	2308	16
TOTALS	**28438**	**20654**	**7784**	**61**	**52**	**9**	**10827**	**7506**	**3321**	**17550**	**13096**	**4454**

POSSIBLE CONTRIBUTING CIRCUMSTANCES

Contributing Circumstances Indicated	All Accidents	Fatal	Injury	Property Damage
Speed Too Fast	1384	6	501	877
Failed toYield Right of Way	3487	5	1437	2045
Drove Left of Center	268	1	83	184
Improper Overtaking	230	1	60	169
Passed Stop Sign	258	2	126	130
Disregarded Traffic Signal	1087	4	550	533
Followed Too Closely	593		257	336
Made Improper Turn	701		178	523
Other Improper Driving	2840	3	1046	1791
Inadequate Brakes	174		86	88
Improper Lights	38		20	18
Had Been Drinking	1030	20	455	555
TOTALS	**12090**	**42**	**4799**	**7249**

TYPE OF MOTOR VEHICLE

Vehicle Type	All Accidents	Fatal	Injury	Property Damage
Passenger Car	29228	43	10242	18943
Passenger Car and Trailer	9		3	6
Truck or Truck Trailer	2615	7	829	1779
Truck Tractor and Semi-Trailer	264	2	58	204
Other Truck Combination	3		2	1
Farm Tractor and/or Farm Equip.	2		2	
Taxicab	N/A	N/A	N/A	N/A
Bus	207	1	76	130
School Bus	120		42	78
Motorcycle	423	11	357	55
Motor Scooter or Motor Bicycle	10		10	
Others and Not Stated	59		29	30
TOTALS	**32940**	**64**	**11650**	**21226**
Special Vehicles Included Above				
Emergency Vehicle	47		26	21

MOTOR VEHICLE TRAFFIC ACCIDENTS

PERSONS KILLED BY AGE GROUP AND TYPE OF PERSON-SEX

Age Group	All Persons			Pedestrians			Bicyclists			Drivers			Passengers		
	Total	-M-	-F-	Total	-M-	-F-	Total	-M-	-F-	Total	-M-	-F-	Total	-M-	-F-
0-4	1	1		1	1										
5-9	1		1	1		1									
10-14	2		2	2		2									
15-19	9	7	2							6	5	1	3	2	1
20-24	13	12	1	1	1					10	10		2	1	1
25-34	6	4	2	2	1	1				2	2		2	1	1
35-44	2	1	1										2	1	1
45-54															
55-64	4	1	3	3	1	2	1		1						
65-74	4	3	1	3	2	1				1	1				
75-Over	4	1	3	3	1	2							1		1
Not Stated															
Total	**46**	**30**	**16**	**16**	**7**	**9**	**1**		**1**	**19**	**18**	**1**	**10**	**5**	**5**

PERSONS INJURED BY AGE GROUP AND TYPE OF PERSON-SEX

Age Group	All Persons			Pedestrians			Bicyclists			Drivers			Passengers		
	Total	-M-	-F-	Total	-M-	-F-	Total	-M-	-F-	Total	-M-	-F-	Total	-M-	-F-
0-4	249	126	123	58	30	28							191	96	95
5-9	382	215	167	158	98	60	38	30	8				186	87	99
10-14	341	176	165	88	36	52	94	66	28	4	4		155	70	85
15-19	1323	700	623	110	56	54	75	58	17	544	364	180	594	222	372
20-24	1845	1030	815	92	50	42	51	37	14	1075	680	395	627	263	364
25-34	2297	1298	999	96	54	42	33	23	10	1520	949	571	648	272	376
35-44	971	529	442	56	36	20	4	3	1	658	397	261	253	93	160
45-54	616	314	302	22	16	6	3	2	1	422	250	172	169	46	123
55-64	497	233	264	28	17	11	1	1		301	176	125	167	39	128
65-74	305	135	170	30	16	14	2	2		161	98	63	112	19	93
75-Over	153	61	92	28	10	18	1	1		66	38	28	58	12	46
Not Stated	163	84	79	3	2	1	3	3		6	5	1	151	74	77
Total	**9142**	**4901**	**4241**	**769**	**421**	**348**	**305**	**226**	**79**	**4757**	**2961**	**1796**	**3311**	**1293**	**2018**

ROAD SURFACE CONDITION

Surface Condition	All Accidents	Fatal	Injury	Property Damage
Dry	11900	28	4518	7254
Wet	3612	12	1332	2268
Snowy or Icy	1334	2	310	1022
Other	138		38	100
Not Stated	103		17	86
Totals	**16987**	**42**	**6215**	**10730**

LIGHT CONDITION

Light Condition	All Accidents	Fatal	Injury	Property Damage
Daylight	9788	15	3768	6005
Dawn or Dusk	334	1	109	224
Darkness	6757	26	2334	4397
Not Stated	108		4	104
Totals	**16987**	**42**	**6215**	**10730**

MOTOR VEHICLE TRAFFIC ACCIDENTS

PEDESTRIAN ACTIONS BY AGE GROUP

PEDESTRIANS KILLED AND INJURED

Pedestrian Accidents by Age	Ped. Killed	Total	0-4	5-9	10-14	15-19	20-24	25-44	45-65	65-OV	Not Stated
Intersection of Crosswalk	3	318	12	52	39	44	39	55	27	50	
Not Intersection or Crosswalk	7	253	34	80	32	31	20	42	8	5	1
In Roadway With Traffic	2	32	1	6	2	4	9	7	2	1	
In Roadway Against Traffic		8				3		5			
Standing in Roadway	1	41				10	8	15	5	1	2
Getting On or Off Vehicle		13		1		1	3	5	1	2	
Working On or Pushing Vehicle		2				1			1		
Working in Roadway		1							1		
Playing in Roadway		23	6	10	3	2	2				
Lying in Roadway	1	40	4	7	8	3	5	8	4	1	
Not in Roadway	2	54	2	3	6	11	7	17	4	4	
Unknown											
Total Pedestrians	**16**	**785**	**59**	**159**	**90**	**110**	**93**	**154**	**53**	**64**	**3**

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SEVERITY OF INJURY BY ACCIDENT TYPE

Type of Accident	NUMBER OF ACCIDENTS All Accidents	Fatal	Total	A	B	C	Property Damage	Total Killed	NUMBER OF PERSONS INJURED Total	A	B	C
Ran Off Road	1915	14	571	98	274	199	1330	18	742	117	346	279
Overturned	49		41	11	24	6	8		51	11	29	11
Pedestrian	685	14	671	163	236	272		14	718	170	254	294
Motor Vehicle	10524	10	4102	413	1131	2558	6412	10	6657	522	1657	4478
Parked Vehicle	3377	2	469	54	212	203	2906	2	587	65	246	276
Railroad Train	17	1	5	2	1	2	11	1	9	4	1	4
Bicyclist	310	1	293	62	113	118	16	1	305	62	118	125
Animal	6		1			1	5		1			1
Fixed Object	17		7	1	6		10		8	1	7	
Other Object	23		6	1	2	3	17		6	1	2	3
Non Collision	64		49	14	21	14	15		58	14	22	22
Total Accident	**16987**	**42**	**6215**	**819**	**2020**	**3376**	**10730**	**46**	**9142**	**967**	**2682**	**5493**

OFFICERS KILLED OR ASSAULTED

OFFICERS KILLED — By Felonious Act - 2 By Accident or Negligence - 0

OFFICERS ASSAULTED —

	TYPE OF WEAPON				TYPE OF ASSIGNMENT							
						One-Man Vehicle		Detective or Special Assign.		Other		
	Firearm	Knife or Other Cutting Instrument	Other Dangerous Weapon	Hands, Fists, Feet, etc.	Two-Man Vehicle	Alone	Assisted	Alone	Assisted	Alone	Assisted	Assaults on Officers Cleared
1. TYPE OF ACTIVITY												
A. Disturbances	0	0	3	39	40	0	0	0	1	0	1	42
B. Burglaries	0	0	0	2	1	0	0	0	0	0	1	2
C. Robberies	2	0	0	4	5	0	0	0	0	1	0	6
D. Attempting Other Arrests	0	1	1	86	52	1	1	0	1	15	18	87
E. Civil Disorder	0	0	0	2	2	0	0	0	0	0	0	2
F. Handling/Trans./ Custody of Prisoners	0	0	2	37	23	0	0	0	0	1	15	39
G. Investigate Suspicious Persons/Circumstances	0	0	0	3	1	0	0	0	0	0	2	3
H. Ambush—No Warning	0	0	0	1	0	0	0	0	0	1	0	1
I. Mentally Deranged	0	0	1	9	9	0	0	0	0	0	1	10
J. Traffic	0	0	4	12	12	1	0	0	0	1	2	16
K. All Other	0	0	0	1	1	0	0	0	0	0	0	1
2. SERIOUSNESS												
A. Number With Injury	2	1	11	196	146	2	1	0	2	19	40	209
B. Number Without Injury	0	0	0	0	0	0	0	0	0	0	0	0

3. TIME	12 to 2	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12
AM	47	34	2	5	5	5
PM	5	9	20	13	33	32

SUPPLEMENTARY ACTIVITIES FOR UNIT IV

The following supplementary activities can provide some additional opportunities to learn about criminal law. They are reprinted here from The Rights and Responsibilities of Citizenship In a Free Society with the permission of the Missouri Bar and the Missouri Department of Elementary and Secondary Education.

CRIME AND CRIMINALS

The students will study agencies and institutions that deal with the rehabilitation or punishment of criminals (e.g., juvenile detention centers, city and county jails, state prisons, office of probation and parole, etc.).

1. Arrange debates on the topic of capital punishment.

2. Have students investigate and discuss alternate approaches for dealing with criminals, such as work release programs, probation, and urban centers. An excellent resource filmstrip is *Law in a Democracy: Consequences for the Convicted* (Guidance Associates).

3. Invite an official of a halfway house in the area to explain their program to students. Other community resource people may be invited, such as an official from the Office of Probation and Parole.

SIMULATION: A CONFERENCE ON REDUCING CRIME

The simulation described below is effective for generating discussion, building speaking and reasoning skills, helping students to understand a specific position, and allowing them to develop a consensus based on compromise. The activity can be completed within one class period, or be extended over several periods. The students will

probably need time to research the question and their positions.

Conference on Keeping Order

All members of the class should participate in this activity. The activity shows how hard it is to get agreement on the meaning of the term "law and order." The goal is to encourage discussion and try to get student-participants to work out a compromise acceptable to at least the majority.

Steps:

Divide the class into the following role-groups:

- Policemen from several large cities
- Mayors representing major cities
- Middle class taxpayers
- Group of young blacks from low income neighborhoods.
- Reporters
- College students
- Businessmen from rural (or suburban communities)

The Conference Question:

As a way of holding down the rising crime rate, should the police forces of the U.S. be strengthened by increasing police manpower, weapons, control devices, eliminating legal restrictions on police power (e.g. Miranda rights), and making the penalties for assaulting a policeman more severe? Remember — this will cost most tax money.

Planning Session — (15 minutes minimum for each role group to prepare its position; students may actually need to spend several days reading news magazines and interviewing appropriate people to gain an understanding of the roles they have, to play those roles realistically.)

Each role group prepares a brief position statement on the conference question and selects a spokesman.

Conference Session — (25 minutes, including final vote on question)

Each group person expresses his groups' position. The Conference Chairman selects persons who wish to make a point during the conference. Points must reflect role of speaker's group. However, compromise positions may be put forward to obtain a consensus.

Evaluation: (10 minutes)

What happened at the conference? How do you feel about the conference question? Did every group have a fair chance to express its views and influence the final decision? Is the final decision workable? Was it easy to reach a decision? Explain.

DECISION MAKING SIMULATION: THE PAROLE BOARD

Read "The Parole Board's Problem," printed below:

The Parole Board's Problem

You are on the parole board in your state. There has been a great rise in the crime rate, and as a result a large number of criminals have been convicted and sentenced, many to long terms. The prison is already overcrowded, and you must make selections on whom to parole to make room for the most recent crop of criminals. You are to pick eight of the inmates on this list:

1. A bookseller, convicted of selling pornographic material.

2. An arsonist convicted for setting four fires to public buildings, now "cured" after serving eight months of a three year sentence.

3. A banker convicted of embezzling a million dollars from a big city bank.

4. An ex-college student and heroin addict serving time for pushing hard drugs to juveniles.

5. Civil rights lawyer convicted for contempt of court.

6. An AWOL Vietnam serviceman who, upon returning home, was convicted of desertion.

7. A black militant member of MauMau convicted of conspiracy.

8. A "Godfather" convicted for tax evasion.

9. Newspaper reporter convicted of refusing to identify his news sources in a delicate case involving three members of President's cabinet.

10. A doctor convicted of criminal malpractice.

11. Female liberationist who strongly believes in freedom of expression who removed her clothes in public.

12. A father who refused to send his children to school because of the religious-type celebrations held in school.

Have students divide into groups of 5. Each group will act as a parole board to decide on which 8 of these 12 will be paroled. The decisions of each board must be unanimous. If they cannot agree on 8, only those receiving unanimous approval will receive paroles.

After a period for discussion and decision-making, each group will report on which ones they granted parole to, and what their reasons were for selecting those. They can also be asked to tell why they did not agree to give parole to others on the list.

Out of the reports and the discussion, let the class try to work out guidelines for a parole board. Then compare those with the official guidelines which presently regulate decisions of Missouri boards.

Inviting an official from the Division of Probation and Parole to listen to the students' reasoning and discussion and to assist with the debriefing will help the class to understand the complex questions dealt with by a real parole board.

Mock Trial

Teachers interested in obtaining all of the materials necessary for conducting a mock trial and assistance in planning such an event are asked to contact the social studies office at the Administration Building. Proper preparation and execution of this type of activity will take from one to two weeks.

B. LAW BACKGROUND FOR TEACHERS

The following chapters of a teacher text prepared by the Missouri Bar have been reprinted here by permission of that organization. Teachers can gain some valuable insights into the law by reading these materials before becoming involved with classroom work on law.

A RESOURCE TEXT FOR THE TEACHER

I. WHY THE LAW?

GOAL: This chapter is designed to show (a) the need for laws or rules in society and (b) the positive or freeing aspects of law as opposed to the restrictive aspects that most people view as the only aspects of law.

I. WHAT IS LAW? (discussion question)

A. Law can be defined as:

1. The binding custom or practice of a community.

a. The need for a system of law and its sophistication depends upon population size and the complexity of a society.
Anytime you have two or more people together who must interact, some form of rules develop whether written or not.

b. As it says in *Due Process of Law*, a book available from the Missouri Bar: "Every primitive society from its beginning has had law. Even savage tribes have a fairly well established legal system, since law is simply a statement of principles which has grown out of problems resulting from people living together. In this country much of the law can be traced back to principles evolving from Ecclesiastical Law, and established in the English courts during the Fifteenth Century."

2. Rules of conduct enforced by a controlling authority.

a. These rules of conduct can be found in codes, statutes, ordinances, and administrative regulations as well as in common law precedents.
(1) In criminal law, most rules are found in the former sources.
(2) In civil law, the rules are most often found in court decisions.

b. Initially, the "controlling authority" is the police and prosecutor in criminal law. The court acts as an umpire between the accused and the prosecutor until the case has been adjudicated.

II. WHY ARE THERE LAWS? (discussion question)

A. *To lessen cultural shock.* Law adds certainty and security to our lives that certain behavior is acceptable and that actions or written instruments will have a desired result or interpretation.

B. *To protect society or individuals from misdeeds of others.*

1. These misdeeds can be purposeful or accidental.
2. Laws protect men from others' misdeeds or provides a remedy.

C. *To uphold the morality of the day.*

1. This is more-or-less true.

2. Statutes or case decisions that set standards of behavior can be said to reflect the morality of the day.

3. However, there are three caveats to this view:

   a. Morality changes over a period of time. A statute that reflects yesterday's morality when it was enacted may not reflect today's morality.
   b. A particular statute may not reflect the morality of the populace because of the compromise inherent in its passage.
   c. Case decisions may not reflect the morality of the day because of the particular makeup of a jury.
   d. But, in general, the premise is true.

D. *To assign priorities to problems of the day.* A comparison of laws of primitive societies to those of the United States would show a great variation in emphasis.

   a. We in the United States have developed our laws beyond those necessary simply for survival.
   b. Today's priorities may be civil rights, the environment or various subjects of concern.

E. *To provide for orderly change.*

F. *To lessen conflict and controversy.*

III. WHAT IS THE ROLE OF LAW? (discussion question) If one were to try to incorporate all the reasons above into statements of the role of law in a free society, one would probably come up with:

A. To provide a systematic and reasoned solution for social conflicts.

B. To influence conduct to provide for the safety, protection and personal freedom of the individual.

C. To facilitate the operation of business and commerce. (Business and commerce includes transactions between people as well as corporations.)

IV. IN FULFILLING THAT ROLE, HOW DOES LAW AFFECT US? (discussion question)

A. How does law restrict us?	B. Positive result of that restriction in terms of the role of law:
1. Zoning laws may restrict the right to use our property the way we want to.	1. It also keeps a person from building an animal rendering plant next door to our home, thus fitting under IIB.
2. Forces an estate to go through probate.	2. This comes under IIB and IIC (see The Missouri Bar pamphlet "The Purpose and Functions of the Probate Court"). The probate court: a. "protects the rights of one's heirs and assures the orderly transfer of the deceased's property after his death, either in accordance with his wishes if he left a Will, or by law if he died without having made a Will." b. Protects the rights of the deceased's creditors, corporate or individuals. c. "allows the estate to conveniently collect any debts that might have been owing to the deceased at the time of his death." d. "guarantees the lection of any taxes which might be due by reason of the transfer of the decedent's property." e. "establishes clear title to any real estate which the deceased

A. How does law restrict us?	B. Positive results of that restriction:
	might have owned at the time of his death." f. "makes certain that the rights of the deceased's widow are protected — or at least that she is made aware of the existence of those rights." g. Supervises estates of minors and those whom the Court finds to be mentally incompetent.
3. Makes us pay taxes.	3. Supports widows and orphans, builds highways, pays school teachers salaries. Thus, fits into IIb and IIc.
4. Is so complex that I have to get a lawyer for every legal hassle.	4. Refer to Missouri Bar pamphlet "Meet Your Lawyer". Also *Due Process of Law Teacher's Guide*. This fits under IIa, IIb, and IIc. General answer: As was said earlier: "The number of laws and their complexity is in direct proportion to the number of people and the complexity of a society." In order to properly fulfill the role of law, specialists in the application, processing and interpretation of laws have developed. This frees the individual from an impossible task.
5. Makes professionals like lawyers, doctors, barbers, cosmetologists, teachers	5. Protects people (IIb) from incompetents. Why barbers and cosmetologists?

A. How does law restrict us?	B. Positive Results of that restriction:
get licenses or certification.	Possibly because barbers used to "let blood" and there is the danger that cosmetologists might dispense cremes and drugs that are detrimental.
6. Customs laws and immigration.	6. Comes under IIb and IIc. Protects jobs and business from adverse competition. Protects the populace from diseases and an influx of people that our economy could not absorb.
7. Limits the use of firearms.	7. Comes under IIb. Protects individuals from the discharge of firearms in cities, etc.
8. Property laws and recording statutes.	8. Comes under IIa, IIb, and IIc. Failure to have such laws could result in problems like the range wars in the 1800's out West.
9. Traffic laws.	9. Comes under IIb. People can operate cars with confidence that most drivers will stay on their side of the road and stop at stop lights.
10. Juvenile laws.	10. Comes under IIa and IIb. Allows for discipline and guidance of youth without the stigma of criminality. Refer to Missouri Bar pamphlet "You Can't Touch Me" and later chapter on Juvenile Courts.
11. Criminal laws.	11. Ensures IIa and IIb.

V. CONCLUSIONS:

A. Law is a positive force more than it is a restrictive force.

B. Any restrictions upon an individual are imposed to ensure that the law fulfills one or more of its roles:

1. To provide a systematic and reasoned solution for social conflict.

2. To influence conduct to provide for the safety, protection, and personal freedom of the individual.

3. To facilitate the operation of business and commerce.

C. Students will appreciate more fully the positive aspects of the law if they consider the role of law and how personal freedoms would be affected were there no laws. It beats anarchy.

II. HOW THE LAW DEVELOPS

GOAL: This chapter is designed to show how law changes to meet the changing needs of society. Also, it is intended to show the sources of law and their relationship.

I. THE LAW IN A CHANGING WORLD AND CHANGING SOCIETY.

A. The law is molded and developed by changing conditions that create new appreciations and viewpoints in dealing with old problems and create new problems.

B. There are five sources of change in the law:

1. The legislative branches.
2. Administrative bodies.
3. The executive branches.
4. The judicial branches.
5. The people.

II. THE LEGISLATIVE BRANCHES.

A. The federal legislature enacts federal statutes.

B. The state legislatures enact state statutes.

C. Elected municipal officials enact municipal ordinances.

D. Because the legislative branches are popularly elected and have as their primary task the passing of needed legislation, they are fairly quickly reactive to changes in public mood and mores. Examples of change brought about or studied by the legislative branches:

1. Federal level —
   a. civil rights legislation resulting in substantial changes with respect to minority groups and women.
   b. the consideration of a national no-fault insurance bill.
   c. proposed changes in the federal tax laws.
   d. review of campaign financing laws.

2. State level —

the Missouri legislature enacted a no-fault divorce statute (Marriage Dissolution Act) which went into effect January 1, 1974. (See Vol. 29 *Missouri Bar Journal* #8, pp. 496-528, November-December, 1973, for general informaion.) This statute was in response to citizen and lawyer pressure for more equitable divorce laws

to replace the antiquated laws which often caused perjury and other problems. A Missouri Bar Committee developed a model bill which the legislature enacted with changes.

3. Municipal level —
   a. most municipalities have done away with the laws that require horses and carriages to be operated in certain ways on city streets.
   b. with the advent of the automobile came new regulations on speed and traffic control.

E. The way that a law is enacted in the federal legislature is set out in the diagram below. The same method is used in the state legislature. Municipal ordinances do not follow the same method of enactment.

III. THE EXECUTIVE BRANCHES AS SOURCES OF CHANGE IN THE LAW.

A. The executive, be he president or governor, can effect change in the laws through directives to the administrative bodies within his control.

B. The executive, especially at the federal level, can issue "orders" that often have the force of law until challenged and overturned in the courts. For example:

The executive order requiring contractors with the federal government to undertake positive action programs in hiring minority workers.

C. Through the treaty power given to the federal executive, law can be changed with respect to a foreign nation which will affect a citizen. For example:

A treaty with a foreign country for the protection of migratory birds.

IV. THE ADMINISTRATIVE BODIES AS A SOURCE OF CHANGE IN THE LAW.

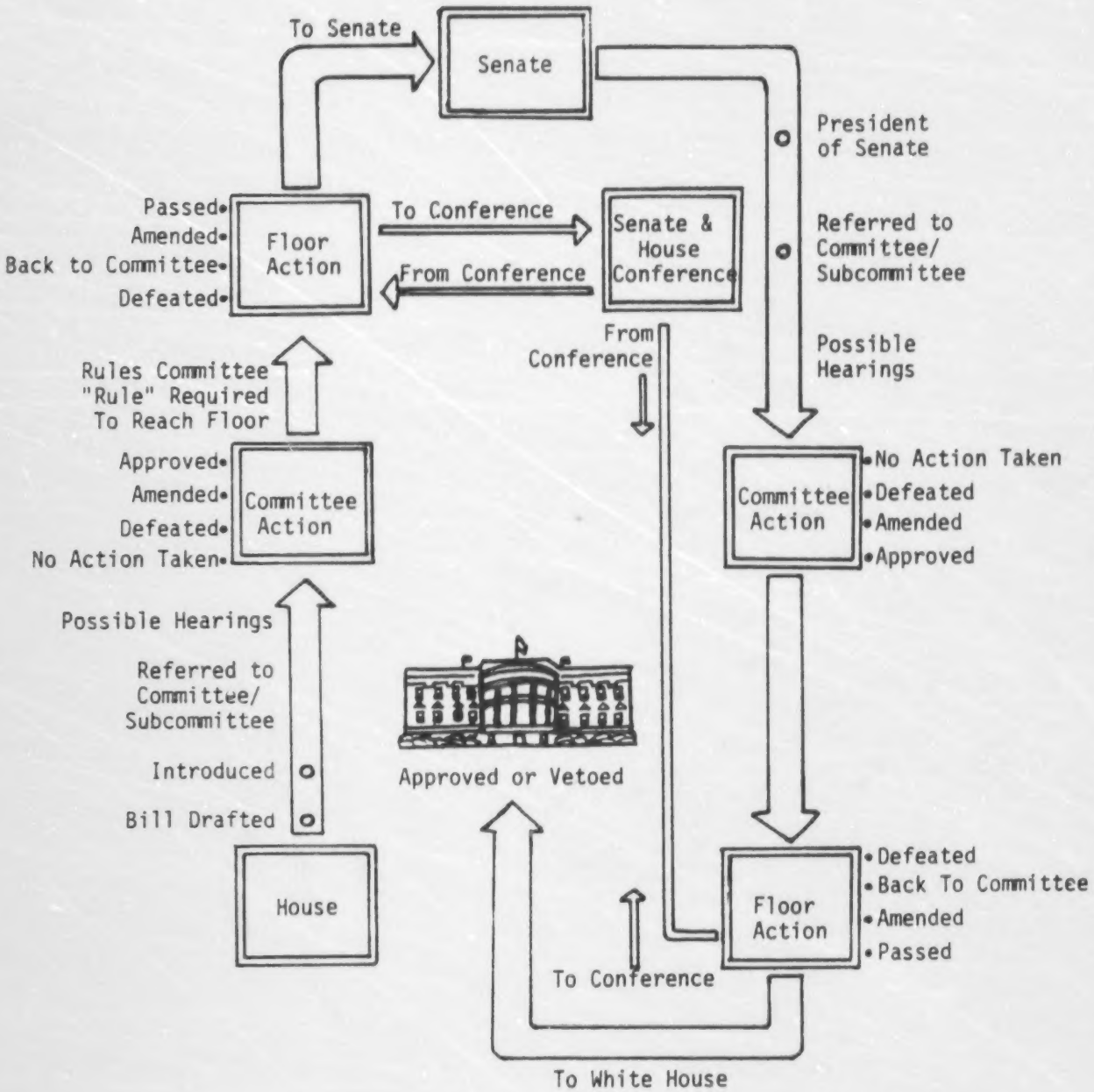
A. The administrative bodies are an extension of either the legislative branch or the executive branch. For example: the Department of Transportation and the Internal Revenue Service.

B. They promulgate regulations that interpret and apply the statute or directive they are empowered to enforce. The regulations are often much more voluminous than the statute. For example:

The Internal Revenue Code versus the Internal Revenue Service regulations.

C. Administrative bodies hold hearings of a judicial nature. For example:

1. Public Service Commission — state level.
2. Internal Revenue Service — federal level.



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D. The administrative bodies are probably only second to the executive branch in ability to react to changing conditions.

E. Examples of the effect that administrative bodies can have on citizens.

1. Actions of the Civil Aeronautics Board have changed many air travel habits. Their regulations have been instrumental in the disappearance of family fares and the popularity of charter flights.

2. The Department of Transportation has had a substantial effect on automobile safety.

3. The Environmental Protection Agency has promulgated many regulations regarding emission control at the urging of citizens. These regulations have not been without controversy.

   a. The cost of the automobile has gone up.
   b. Engine performance has gone down.
   c. Gasoline consumption has gone up at a time when the availability of gasoline has gone down.

4. All of the above (1-3) lead to the question of: "How much regulation is necessary to accomplish the directive to the administrative body?"

V. THE JUDICIAL BRANCHES AS A SOURCE OF CHANGE IN THE LAW.

A. There are two methods by which courts can change law:

1. by deciding a case, or

2. by establishing new or revising old rules of procedure.

B. Case.

1. Decision of a case requires a controversy.

   a. The controversy can be between two individuals resulting in one filing a civil lawsuit, or
   b. The controversy can be between the community and an individual, as in a criminal action by the prosecuting attorney or U.S. attorney.

2. Once the trial court has made a decision, an appeal may be sought by one of the parties. The appeal will often bring out broad philosophical questions that may result in case law, interpretation of statutes, or may result in the voiding of a statute.

3. How effective the courts are as a source of change in the law depends upon whether the court views itself as active or passive.

4. Examples of law change through case decisions:

   a. Federal level —
      (1) abolition of the death penalty under certain broad criminal statutes.
      (2) redefinition of pornography.
      (3) refining of the rights to be afforded accused individuals at various points in criminal investigation, arrest and trial.
      (4) distinguishing between the rights of common citizens and politicians (or public persons) to sue for libel.
      (5) ending the court-created policy of separate-but-equal school segregation.
      (6) requiring busing to end de facto discrimination.
      (7) requiring representation by a lawyer for criminal defendants.
      (8) limiting governmental intrusion into the privacy of citizens in matters such as abortion, wiretapping, etc.
      (9) redefinition of what is meant by separation of church and state in terms of education.
   b. State level —
      (1) reevaluation of the landlord-tenant relationship, e.g., need a property be habitable?
      (2) refining of the liability of a manufacturer for his defective goods.
      (3) abolition of immunity of charity-owned hospitals for torts of their employees.

C. Rules of Procedure.

   1. Changes of rules of procedure often bring about new remedies.

   2. Changes of rules can expand the ability of an individual to sue.

   3. Examples:

      a. Establishment of broad rules relating to who may be joined in a class action brought about a substantial increase in lawsuits against large corporations. (Later decisions have contracted the broad interpretation.)

      b. Adoption of the proposed Federal Rules of Evidence will change the trial of cases substantially.

VI. THE PEOPLE.

A. The people are the source of one amendment process to the state and federal constitutions.

B. The people can get proposed legislation on the state ballot by the petition process.

VII. INTERACTION BETWEEN THE VARIOUS SOURCES OF LAW.

A. Passage of a statute by a legislature often leads to establishment of regulations and en-

forcement by an administrative body. The courts may then review the actions of the administrative body because of the appeal from a citizen who has come under the aegis of the administrative body. This may, in turn, cause the legislature to change the original legislation.

B. A case study.

1. Facts: In the early days of the Republic, charitable organizations were given immunity from tort liability for the negligence of their employees by the courts. Charitable hospitals were the organizations that most benefited from this court-made doctrine. If one of their employees injured an individual, they could not be sued. This was a time of few public medical institutions.

The courts based their reasoning on one or more of the following reasons:

a. *Trust fund theory:* Fundamentally, this theory considers that the funds of a charity make up a trust and that payment of tort claims divert these funds from the charitable purposes. The use of funds to satisfy tort claims would impair the usefulness of the charity by depleting its assets and, therefore, defeating its charitable purpose. J. Horty, *The Status of the Doctrine of Charitable Immunity in Hospital Cases*, 25 Ohio St. L. J. 343 (1964).

b. *Implied waiver theory:* This theory was that a beneficiary of a charity assumes the risk of negligence and the beneficiary's receipt of services implies a waiver of the right to recover.

c. *Respondiat-Superior-Not-Applicable-To-Charities Theory:* Because the doctrine of respondiat-superior is based on the use of servants to make a profit for the master and since charities do not seek profits, the respondiat-superior should not apply and charities should not be held responsible for the negligence of their employees.

d. *Public policy theory:* Charities need protection to ensure their survival.

As time passed, charities became stronger financially, insurance became available to protect against injuries and people began to ask why the hospitals should be immune from suit.

2. Questions: (discussion questions) If immunity is given in your state,

a. Should immunity be continued?
b. If not, who should be the source of the change?
c. If you believe that it should be continued and the court discontinues it, what source would you use to return immunity as the rule?

3. Answers:

a. 2a is a policy question. It can only be answered by public consensus.
b. The best way to answer 2b and 2c is by example:
(1) In Rhode Island, the Rhode Island Supreme Court was the source of change. In 1879, they decided that immunity should no longer be extended to charity-owned hospitals. Glavin v. Rhode Island Hospital, 12 R.I. 411 (1879).

However, in 1896, the Rhode Island Legislature reinstated the doctrine by statute in the belief that charities still needed protection. After a long period

of time, the Rhode Island Legislature changed its belief and repealed that statute. R.I.P.L. 1968 Ch. 43 sl.

(2) The Missouri Supreme Court was of the opinion that the legislature should be the source of change in the long-standing court-made doctrine of charitable immunity. Schulte v. Missionaries of La Salette Corporation of Missouri, 352 S.W. 2d 636, 643 (1961).

However, after the legislature failed to even consider any change in the law that the court felt was anachronistic, the Missouri Supreme Court changed it. Abernathy v. Sisters of St. Mary's, 446 S.W. 2d 599 (1969).

III. HOW THE LAW WORKS

GOAL: This chapter is designed to explain the operation and strengths and weaknesses of the adversary system as a truth-seeking mechanism.

I. *One idea emphasized in the first chapter was that the need for a system of law and its sophistication depends upon population size and the complexity of the society.*

II. *Chapter One also explained the role of law as a means of review, the role of law is:*

A. To influence conduct to provide for the safety, protection, and personal freedom of the individual. For example:

1. Everyone drives on the right side of the road.

2. When a waiter serves you breakfast at a restaurant, he doesn't expect to have to go to the Supreme Court to collect for it from you.

B. To facilitate the operation of business and commerce.

C. To provide a systematic and reasoned solution for social conflicts.

1. Why systematic?

a. So everyone knows where to go to seek relief, where and how to make complaints.
b. For uniformity of result — following the same procedures results in consistency?

2. Why reasoned?

a. For uniformity of result.
b. To instill confidence in the system and the law. People need to know the reasons for judicial decisions.

3. What is a "social conflict"?

It can concern negligence, a contract or any number of conflicts between two persons (one of which could be a corporation) or between a person and the government involving either a crime or one of the above-mentioned disputes.

III. THE ADVERSARY SYSTEM.

A. This is the "system" we use in the United States for providing a systematic and reasoned way to solve social conflicts. Each side to a conflict presents the arguments in its favor to an impartial judge and/or jury who settles the conflict.

B. Initiation of a suit in the system.

1. In the civil cases, an injured *individual* must bring a suit to initiate the suit in most cases.

a. Just because someone files a suit does not mean he has a good case.
b. A person with a frivolous case may have trouble getting a lawyer.
c. Why get a lawyer at all?
(1) In the quest for uniformity and fairness, very complex procedures for filing, presenting and appealing suits have developed.
(2) Lawyers are skilled in collecting facts and presenting them in the best light, i.e., in a way that will persuade the fact finder.
d. Sometimes, the government will bring suit for an injured person. For example:
(1) anti-trust suit
(2) civil rights cases

2. In criminal cases a complaint by an individual, information by the prosecutor or indictment by a grand jury initiates the system.

C. Burdens on litigant to overcome opponent.

1. Burden of proof.

Filing suit is not enough. Like a debate, one must bring in *convincing facts* to prove what one alleges. One must bring in "**enough**" evidence so that reasonable men can find in his favor. This has to do with the **quantity** of evidence.

2. Burden of persuasion. This has to do with the **quality** of the evidence.

3. How does the jury decide who has fulfilled the burden?

a. Civil cases.
(1) **before, Missouri** juries were instructed to find in favor of the plaintiff if he proved his **case** "by the preponderance of the evidence".
(2) Today jury instructed to find in favor of plaintiff if he "causes them to believe".
b. **Criminal** cases — "beyond a reasonable doubt".
c. **Unanimous** verdict necessary for criminal cases. Majority for civil cases.

D. The role of the jury.

1. To decide the facts, i.e., what the truth is.

2. To apply to the given situation the law as outlined by the judge in the instructions to the jury. Missouri now has uniform instructions in both criminal and civil cases to help insure uniformity of result.

3. In Missouri and a few other states, the jury sets the sentence in criminal cases.

E. What are the weaknesses of the system?

1. Judge's bias.

   a. They try not to be, but some are.
   b. There are safeguards, e.g., change of venue.

2. Jury bias.

   a. Voir dire weeds most out. What kinds of questions would accomplish this?
   b. Lawyers take into account possible biases in the way they present the facts. However, this is not to say that they would attempt to fool the jury or misrepresent facts.

3. Court congestion.

   a. In most circuits in Missouri there is no congestion.
   b. Some problems exist where circuits have not been adjusted to reflect population shifts.
   c. Delay is sometimes caused by lawyers using all of the procedures to the advantage of his client. This is often necessary to prepare a case that presents the client's position in the best light.
   d. What is judicial economy? Lawyers and jurists would rather have a slow and just process than a speedy unjust one.

4. Spasmodic development of law.

   a. Courts can only decide the cases brought before them. They cannot seek out inequities in society and right them on their own.
   b. The legislature is the place where changes of law should be made to deal with problems that are "likely to come up".
   c. It took many years before a someone appealed to the Supreme Court because he wasn't provided with an attorney to represent him in a felony prosecution.

5. Accessibility to the courts.

   a. Some say courts are not accessible to everyone.
   b. With legal aid for the indigent those who are poor can get help.
   c. There is a movement in the insurance industry toward legal insurance not unlike Blue Cross medical insurance.
   d. Some unions are attempting to get legal insurance as a fringe benefit.
   e. All these attempts to overcome the problem have the general approval of lawyers with the caveat that no restriction be made on **WHO** the individual selects as his

lawyer. The basis of the caveat is the personal nature of the attorney-client relationship.

IV. THE DIFFERENCE BETWEEN THE CRIMINAL LAW AND CIVIL LAW.

A. Criminal law.

1. Crimes are defined in statutory law for the most part.

   a. We first define what is a criminal act.

   b. Must be **specific** enough so that a person will understand that if he does a certain act, he is committing a crime.

   c. Must balance a person's constitutional rights against the welfare of society to see if the statute is constitutional.

2. Enforcement.

   a. Investigation and apprehension is carried out by police, FBI, etc.

   b. **Not** a judicial function. The judicial branch is an arbiter not law enforcement organization.

   c. These organizations must balance public's interest in apprehension vs. individual's rights not to be wrongfully detained, falsely changed, etc.

3. Prosecution.

   a. Prosecuting attorney directs prosecution.

   b. Presents the states case at arraignment and at hearings for the setting of bail.

   c. Preliminary hearing.

   d. Possible plea negotiation.

      (1) Prosecutor and defense lawyer separately weigh their evidence and predict what is likely to happen if the case goes to a jury.

      (2) Then each try to negotiate toward a position that would be at least as good as they predict would result if they went to the jury.

   d. Trial.

   e. Appeal

4. Sentencing.

   a. Should the jury do the sentencing?

   b. Should the judge?

   c. In Missouri, as in only a few other jurisdictions, sentencing is done by juries.

      (1) Where there is a guilty plea or if the jury can't agree, then the judge will set the sentence.

      (2) If the judge sets the sentence, he may hold a pre-sentence hearing to find out more about the convicted person's past, etc.

5. Post-conviction remedies. These are legal pleadings which may follow conviction and all appeals.

B. Civil law.

1. It may involve disputes concerning:

   a. contracts.
   b. negligence.
   c. intentional torts.
   d. products liability.
   e. property.

2. Procedure.

   a. Preparation before filing suit.
      (1) Examination of client.
      (2) Investigation.
   b. Filing the suit.
      (1) Selection of venue.
      (2) Selection of the parties.
      (3) Allegations of the petition.
      (4) Answer.
   c. Motions.
   d. Discovery.
      (1) Depositions.
      (2) Interrogatories.
      (3) Production of documents.
      (4) Admissions.
      (5) Physical and mental examination.
      (6) Enforcement of discovery.
   e. Preparation for trial.
      (1) Trial brief.
      (2) Review of elements of case with client.
      (3) Review of testimony with witnesses.
      (4) Subpoena witnesses.
   f. Trial.
      (1) Selection of jury.
      (2) Openings statements.
      (3) Evidence.
         (a) Examination.
         (b) Cross-examination.
      (4) Closing argument.
      (5) Jury verdict.

IX. THE BILL OF RIGHTS AND INDIVIDUAL CIVIL LIBERTIES

GOAL: This chapter is designed to show the individual civil liberties guaranteed by the Constitution and, equally important, the civic responsibilities that accompany civil liberties.

INTRODUCTION

A. When we speak of civil rights and individual liberties we tend to speak in terms of absolutes. Either people have them or they don't. This is really not the case. Every country allows some rights and liberties even if they are not set out in some document. On the other hand, no country regardless of whether specific rights are written down allows absolute or unlimited freedom. This includes the United States.

B. The best way to find what our freedoms are is to look to the Constitution. The best way to find what the limitations are on those freedoms is to look to court decisions.

I. THE FIRST AMENDMENT.

A. Freedom of Religion.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ."

B. Establishment Clause.

1. Some countries have official religions. Examples: Spain, Catholic; England, Church of England; Israel, Judaism; Arabian Countries, Moslem.

2. Constitution does not allow the Congress to establish an official religion.

3. Tax support of religious organizations is prohibited also. This reflects the feelings of early Americans. Thomas Jefferson said:

". . . to compel a man to furnish contributions of money for the propogation of opinions which he disbelieves . . . is sinful and tyrannical; that even the forcing him

to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor (of his choice)." – Virginia Bill for Religious Liberty

4. How does this clause affect the aid to private and parochial schools?

   Parochial schools save the taxpayers a lot of money. Should they be paid back some of this savings? (discussion question)

5. Can this clause explain why the churches are not taxed? (discussion question)

   In general, church property is not taxes unless it is income producing property: i.e., indirect taxes on religion are allowable.

6. Some examples of questions that have come before the courts under the Establishment Clause.

   a. What would happen if a state passed a law that said that all parents should be paid back for bus fares paid for the transportation of children in school where the public school does not provide transportation? Should the parents of parochial school children also be paid back? (discussion question) The Supreme Court has said:

      "The state contributes no money to the schools. It does not support them. Its legislation, as applied, does no more than provide a general program to help parents get their children, regardless of their religion, safely and expeditiously to and from accredited schools.

      "The First Amendment has erected a wall between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach. New Jersey has not breached it here." Everson v. Board of Education of Township of Ewing, 330 U.S. 1 (1947)

   b. Can public school facilities be used for religious instruction? (discussion question)

      No, held the Supreme Court. It violates the establishment clause. McCollum v. Board of Education, 333 U.S. 203 (1948)

   c. Can children be released from public schools to attend religious classes held elsewhere? (discussion question)

      Yes, held the Supreme Court. Justice Douglas said in part:

      "When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions . . . Government may not finance religious groups nor undertake religious instruction nor use secular institutions to force one or some religion on any person. But we find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence." Zorach v. Clauson, 343 U.S. 306, 313 (1952)

d. Direct reimbursement of a parochial school for non-religion teachers' salaries and for secular textbooks is unconstitutional because of "excessive government entanglement with religion." Lemon v. Kurtzman, 403 U. S. 602 (1971). Indirect aid to the schools through the reimbursement of the children or their parents is allowable, e.g., school lunch programs, textbook reimbursement, health services.

e. Can a state compose an official prayer and require the recitation of it? (discussion question)

New York tried: "Almighty God, we acknowledge our dependence upon thee and we beg Thy blessings upon us, our parents, our teachers and our country." Justice Black, speaking for the Supreme Court, said that this is contrary to the First Amendment in two ways: First, it secularizes a religious practice which for many people is so sacred that it should be confined to the privacy of one's home or place of worship; Second, that all children should be required to say the prayer smacks of religious persecution or intolerance. "The New York laws officially prescribing the Regents' prayer are inconsistent with the purposes of the Establishment Clause and with the Establishment Clause itself." Engle v. Vitale, 370 U.S. 421, 433 (1962)

f. Must churches get a merchant's license or peddler's license to sell religious objects? (discussion question)

No. Murdock v. Pennsylvania, 319 U.S. 105, 63 S.Ct. 870, 87 L.Ed. 1292 (1943) and Follett v. McCormick, 321 U.S. 573, 64 S.Ct. 717, 88 L.Ed. 938 (1944).

C. Free Exercise Clause.

Is there an absolute freedom to exercise religion? Is there any legal difference in believing something and putting that belief into practice? Can a person violate laws on the basis of religious freedom? When does a law become unconstitutional because it violates a person's religious freedom? (discussion question)

1. *Belief v. Practice.* Prior to 1890, the Mormons practiced polygamy. This was a crime in the territory of Utah where most Mormons lived. George Reynolds, a Mormon, married a second wife and was prosecuted. Was the law passed by Congress unconstitutional because it prohibited the free exercise of Reynolds's religion? The Supreme Court held No. Chief Justice Waite gave the opinion of the Court. In part, he said:

"... Laws are made for government (control) of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices. Suppose one believed that human sacrifices were a necessary part of religious worship...? Or if a wife religiously believed it was her duty to burn herself upon the funeral pyre of her dead husband . . .? . . . Can a man excuse his practices because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself . . ." Reynolds v. United States, 98 U.S. 145 (1879)

2. *A state Sunday closing law* is not unconstitutional when applied to against those whose religious convictions prevent them from working on Saturday as well. Such laws result only in an indirect burden on the exercise of freedom of religion and do not violate the First Amendment. Braunfeld v. Brown, 366 U.S. 599 (1961).

3. *Can a taxpayer refuse to pay school taxes because he needs the money to send his children to a private or parochial school? Violative of free exercise clause?* (discussion question)

No, says the Missouri Supreme Court

". . . It is true that the payment of school taxes will decrease the amount of money available to plaintiff for his other expenses, including the cost of sending his children to private schools. However, all other taxes, including income taxes, produce the same result. If plaintiff's theory is valid, then all taxes would be unconstitutional." McDonough v. Aylward, 500 S.W. 2d 721, 723 (Mo. 1973). (Decision based on First and Fourteenth Amendments and Article 9, Section 8, Missouri Constitution.)

II. FREEDOM OF SPEECH AND PRESS.

A. Every country has **some** freedom of speech. But, in no country is there an absolute right to **say anything** at **any** time in **any** place.

B. The First Amendment says:

"Congress shall make no law . . . abridging the freedom of speech, or of the press or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

1. Does not limit individuals from impinging on freedom of speech. Applies to the government.

2. Applies to the states through the Fourteenth Amendment.

C. Some reasons why freedom of speech is a good idea:

1. an aid to intelligent choice between alternatives or conflicting ideas.

2. causes new ideas to be developed to meet changing situations or needs of society.

3. serves as an outlet for resentment or hostilities that might find more dangerous expression through violence, etc.

D. What is "freedom of speech"? (discussion question)

1. Dates back as far as ancient Athens — in the Fifth Century B.C.

2. Freedom of speech in England at the time of the adoption of the U. S. Constitution can be exemplified by the writings of Blackstone, the famous English lawyer. He wrote in 1765:

"Liberty of the press . . . consists in laying no previous restraint upon publications . . ."

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Thus his concept was that freedom of expression protects a person from prior restraint or censorship. The government could not keep a person from communicating ideas, but this did not prevent the government from punishing a person for what he said AFTER he said it.

This did not mean that there could **never** be prior restraint. It was acknowledged that there was a responsibility to society not to injure itself. For example, during wartime the government was thought to have a limited right to censor what was published.

3. These two ideas are still today basic to freedom of expression. Near v. Minnesota, 283 U.S. 697, 51 S.Ct. 625, 75 L.Ed. 1357 (1931) and Schenck v. United States, 249 U.S. 47, 39 S.Ct. 247, 63 L.Ed. 470 (1919).

E. Prior restraint v. subsequent punishment.

Is subsequent punishment "closing the barn door after the horse has run away"? What about in relation to pornography? Was it the kind of speech intended to be protected by the founding fathers? (discussion question)

1. Public officials would tend to suppress rather than allow a writing contrary to public opinion be published fearing adverse political reaction.

2. Public officials would tend to suppress any work criticizing the government.

3. Subsequent punishment allows the work to become public so that society can see if the government is overstepping its bounds.

F. Limitations on free expression usually fit into three categories:

1. Cases where the government may require a person to say **only** the truth or to reveal the **whole** truth. For example:

   a. Defamation (criminal and civil) (See below)
   b. Sale of food (the contents)
   c. Sale of securities and products

2. Cases where the expression is an incitement to crime. For example:

   a. Incite to action in overthrow of the government by force. (See below)
   b. Incite to action in killing all policemen.

3. Cases where expression is not an incitement to crime but is disturbing to the community. For example:

   a. Yelling fire in a crowded theater. (Justice O. W. Holmes)
   b. Using fighting words. (See below)
   c. Disrupting traffic. Cox v. New Hampshire, 312 U.S. 569, 61 S.Ct. 762, 85 L.Ed. 1049 (1941)

d. Using a soundtruck in a residential area. Kovacs v. Cooper, 336 U.S. 77, 69 S.Ct. 448, 93 L.Ed. 513 (1949)

e. Pornography, Miller v. California, 413 U.S. 15, 93 S.Ct. 2607, 37 L.Ed. 2d, 419 (1973). Paris Adult Theater I v. Slaton, 413 U.S. 49, 93 S.Ct. 2628, 37 L.Ed. 2d, 446 (1973).

f. Disrupting judicial administration, Wood v. Georgia, 370 U.S. 375, 82 S.Ct. 1364, 8 L.Ed. 2d, 569 (1962). (Sheriff can't be held in contempt for expressing his personal opinions on matters before a grand jury.) Cox v. Louisiana, 379 U.S. 559, 85 S.Ct 476, 13 L.Ed. 2d 487 (1965) (Courthouse picketing). Shepherd v. Maxwell, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed. 2d 600 (1966) (Pretrial publicity).

g. Disrupting education processes. See below.

G. A close look at some decisions of the Supreme Court will show that they are constantly balancing the freedom of the individual against the valid interests of the majority in deciding if there should be limitation on Free Speech. Examples:

1. In the first category the example was given as to defamation. "Defamation" is defined in Black's Law Dictionary as:

"The taking from one's reputation. The offense of injuring a person's character, fame or reputation by false and malicious statements. The term seems to include both libel and slander."

a. *In Beauharnais v. Illinois, 343 U.S. 250, 72 S.Ct. 725, 96 L.Ed. 919 (1952), the Supreme Court held that libelous utterances are not within the area of constitutionally protected speech.* They did so in sustaining a state statute prohibiting

". . . the manufacturing, publishing or exhibition in any public place of any publication portraying 'depravity, criminality, unchasity, or lack of virtue of a class of citizens, of any race, color, creed or religion (which exposes such citizens) to contempt, derision or obloquy or which is productive of breach of the peace or riots . . .' Petitioner was convicted of violating the statute for having organized the distribution of a leaflet which, inter alia, petitioned the Mayor and City Council of Chicago 'to halt the further encroachment, harassment and invasion of white people, their property, neighborhoods and persons by the Negro'; called for 'one million self-respecting white people in Chicago to unite'; and warned that if 'the need to prevent the white race from becoming mongrelized by the Negro will not unite us, then the aggressions . . . rapes, robberies, knives, guns and marijuana of the Negro, surely will.' "

"Appellant argues, inter alia, that Illinois denied him his constitutional rights by not permitting him to raise the defense of truth and by refusing to charge the jury that in order to convict they must find the leaflet 'was likely to produce a clear and present danger of a serious substantive evil that arises far above public inconvenience, annoyance or unrest.'

"The Court, per Frankfurther, J., affirmed the conviction, recalling the language in Chaplinsky v. New Hampshire, 315 U.S. 568, to the effect that the 'prevention and punishment' of 'the lewd and obscene, the profane, the libelous, and the insulting of "fighting" words' have 'never been thought to raise any Constitutional problem.' "

". . .Illinois did not have to look beyond her own borders or await the tragic experience of the last three decades to conclude that willful purveyors of falsehood concerning racial and religious groups promote strife and tend powerfully to obstruct the manifold adjustments required for free, orderly life in a metropolitan, polyglot community. From the murder of the abolitionist Lovejoy in 1837 to the Cicero riots of 1951, Illinois has been the scene of exacerbated tension between races, often flaring into violence and destruction. In many of these outbreaks, utterances of the character here in question, so the Illinois legislature could conclude, played a significant part."

The Court noted that it could be argued that "the rantings of modern know-nothings" may not be the cause of racial and religious based violence. But, the legislature could reasonably conclude that it was related to the problem.

". . . Libelous utterances not being within the area of constitutionally protected speech, it is unnecessary, either for us or for the State courts, to consider the issues behind the phrase 'clear and present danger.' Certainly no one would contend that obscene speech, for example, may be punished only upon a shoring of such circumstances. Libel, as we have seen, is in the same class."

(Beauharnais evoked four separate dissenting opinions.)

b. *New York Times v. Sullivan, 376 U.S. 255, 84 S.Ct. 710, 11 L.Ed. 686 (1964), involving a suit against the New York Times and four Negro clergymen by one of three elected Commissioners of the City of Montgomery, Alabama, alleging he had been libeled by statements in a full-page advertisement entitled "Heed Their Voices".* Accepting that the statements were untrue and could be taken as referring to the Plaintiff, the Court said:

"Erroneous statement is inevitable in free debate, and . . . it must be protected if the freedoms of expression are to have the 'breathing space' that they need to survive . . . a rule compelling the critic of official conduct to guarantee the truth of all his assertions — and to do so on pain of libel judgments virtually unlimited in amount — leads to a comparable 'self-censorship'.

". . .Under such a rule would-be critics of official conduct may be deterred from voicing their criticism, even though it is believed to be true and even though it is in fact true, because of doubt whether it can be proved in court or fear of the expense of having to do so . . .

"The constitutional guarantees require, we think, a federal rule that prohibits a public official from recovering damages from a defamatory falsehood relating to his official conduct unless he proves that the statement was made with 'actual malice' — that is, with knowledge that it was false or with reckless disregard of whether it was false or not."

c. *Application of Times standard to public communication by school teachers. Pickering v. Board of Education, 391 U.S. 563, 88 S.Ct. 1731, 20 L.Ed. 2d 811 1968):* An Illinois public high school teacher, dismissed for writing a letter to a local newspaper which was critical of the school board's handling of financing, successfully invoked the Times standard. The Court, per Marshall, J., observed that school financing was the "subject of public attention". The statements did not impede "the teacher's proper performance of his daily duties in the classroom or . . . with the regular operation of the schools generally".

"In these circumstances we conclude that the interest of the school administration in limiting teachers' opportunities to contribute to public debate is not significantly greater than its interest in limiting a similar contribution by any member of the general public.

"Were appellant a member of the general public, the State's power to afford the appellee Board of Education or its members any legal right to sue him for writing the letter at issue here would be limited by the requirement that the letter be judged by the standard laid down in Times.

"In a case such as the present one, in which the fact of employment is only tangentially and insubstantially involved in the subject matter of the public communication made by a teacher, we conclude that it is necessary to regard the teacher as the member of the general public he seeks to be.

"In sum, we hold that, in a case such as this, absent proof of false statements knowingly or recklessly made by him, a teacher's exercise of his right to speak on issues of public importance may not furnish the basis for his dismissal from public employment. Since no such showing has been made in this case regarding appellant's letter, his dismissal for writing it cannot be upheld . . ."

2. An example of a case in the second category (see "F" above) would be Dennis v. United States, 341 U.S. 494, 71 S.Ct. 857, 95 L.Ed. 1137 (1951). Petitioners were indicted in July, 1948, for violation of the conspiracy provisions of the Smith Act during the period of April, 1945, to July, 1948. The Smith Act provides:

"Section 2.
a. It shall be unlawful for any person —
(1) to knowingly or willfully advocate, abet, advise, or teach the duty, necessity, desirability, or propriety of over-throwing or destroying any government in the United States by force or violence, or by the assassination of any officer of any such government: . . .
"Section 3.
a. It shall be unlawful for any person to attempt to commit, or to conspire to commit, any of the acts prohibited by the provisions of . . . this title."

The Court's opinion was:

"The obvious purpose of the statute is to protect existing Government, not from change by peaceable, lawful and constitutional means, but from change by violence, revolution and terrorism . . . Whatever theoretical merit there may be to the argument

that there is a 'right' to rebellion against dictatorial governments is without force where the existing structure of the government provides for peaceful and orderly change. We reject any principle of governmental helplessness in the face of preparation for revolution, which principle, carried to its logical conclusion, must lead to anarchy. No one could conceive that it is not within the power of Congress to prohibit acts intended to overthrow the Government by force and violence. The question with which we are concerned here is not whether Congress has such **power,** but whether the **means** which it has employed conflict with the First and Fifth Amendments to the Constitution . . .

"One of the bases for the contention that the means which Congress has employed are invalid takes the form of an attack on the face of the statute on the grounds that by its terms it prohibits academic discussion of the merits of Marxism-Leninism, that it stifles ideas and is contrary to all concepts of a free speech and a free press.

"The very language of the Smith Act negates the interpretation which petitioners would have us impose on that Act. It is directed at advocacy, not discussion . . .

". . . In this case we are squarely presented with the application of the 'clear and present danger' test, and must decide what that phrase imports. We first note that many of the cases in which this Court has reversed convictions by use of this or similar tests have been based on the fact that the interest which the State was attempting to protect was itself too insubstantial to warrant restriction of speech . . . Overthrow of the Government by force and violence is certainly a substantial enough interest for the Government to limit speech . . . If, then, this interest may be protected, the literal problem which is presented is what has been meant by the use of the phrase 'clear and present danger' of the utterances bringing about the evil within the power of Congress to punish . . .

"Chief Judge Learned Hand, writing for the majority below, interpreted the phrase as follows:

> 'In each case (courts) must ask whether the gravity of the "evil", discounted by its improbability, justifies such invasion of free speech as is necessary to avoid the danger.'

"We adopt this statement of the rule . . . Likewise, we are in accord with the court below, which affirmed the trial court's finding that the requisite danger existed."

3. In the third category (see "F" above) is given the example of "fighting words". The general rule concerning the use of "fighting words" is set out in the case of Chaplinsky v. New Hampshire, 315 U.S. 568, 62 S.Ct. 766, 88 L.Ed. 1031 (1942). In this case the defendant called a city marshall a "damned rackateer" and a "damned Fascist". A unanimous Court upheld a statute forbidding a person from addressing "any offensive, derisive or annoying word to any other person who is lawfully in any public place," as construed by the state court to prohibit "words likely to cause an average addressee to fight."

a. The Court did not reach the question of "fighting words" in the case of a hate speech in Terminiello v. Chicago, 337 U.S. 1, 69 S.Ct. 894, 93 L.Ed. 1131 (1949).

"There, petitioner 'vigorously, if not viciously' criticized various political and racial groups and condemned 'a surging, howling mob' gathered in protest outside the auditorium in which he spoke. He called his adversaries 'slimy scum', 'snakes', 'bedbugs', and the like. Those inside the hall could hear those on the outside yell, 'Fascists, Hitlers!' The crowd outside tried to tear the clothes off those who entered. Approximately 28 windows were broken and stink bombs were thrown. But in charging the jury, the trial court defined 'breach of the peace' to include speech which 'stirs the public to anger, **invites dispute,** (or) brings about a condition of unrest (emphasis added)."

A 5-4 majority, per Douglas, J., struck down the breach of peace ordinance as construed.

"A function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger . . . That is why freedom of speech, though not absolute, Chaplinsky, is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest."

b. The next case shows how the Court balances the right of the individual to express himself and the valid interest of the majority in keeping public order. (The case is one frequently found in Civics books.) The dissenting opinions point out that the Justices of the Supreme Court do not always agree as to which way the balance should tilt in a given fact situation. Feiner v. New York, 340 U.S. 315, 71 S.Ct. 303, 95 L.Ed. 295 (1951):

"Petitioner made a speech on a street corner in a predominantly Negro residential section of Syracuse, New York. A crowd of 75 to 80 persons, Negro and white, gathered around him, and several pedestrians had to go into the highway in order to pass by. A few minutes after he started, two police officers arrived and observed the rest of the meeting . . . Petitioner referred to the President as a 'bum', to the American Legion as 'a Nazi Gestapo', and to the Mayor of Syracuse as a 'champagne-sipping bum' who 'does not speak for the Negro people' He also indicated in an excited manner 'The Negroes don't have equal rights; they should rise up in arms and fight for them.'

"These statements 'stirred up a little excitement'. One man indicated that if the police did not get that 'S...O...B...' off the stand, he would do so himself.

"There was not yet a disturbance, but according to police testimony 'angry muttering and pushing . . . After disregarding two requests to stop speaking, petitioner was arrested and convicted of the misdemeanor of disorderly conduct. In affirming the conviction, the Court, per Vinson, C. J. observed:

"The language of Cantwell v. Connecticut is appropriate here . . . No one would have the hardihood to suggest that the principle of freedom of speech sanctions incitement to riot or that religious liberty connotes the privilege to exhort others to physical attack upon those belonging to another sect. When clear and present danger of riot, disorder, interference with traffic upon the public street or other immediate threat to public safety, peace, or order, appears, the power of the State to prevent or punish is obvious.

"It is one thing to say that the police cannot be used as an instrument for the suppression of unpopular views, and another to say that, when as here the speaker passes the bounds of argument or persuasion and undertakes incitement to riot, they are powerless to prevent a breach of the peace . . ."

Dissenting Justice Black contended:

". . . As to the existence of a dangerous situation on the street corner, it seems far-fetched to suggest that the 'facts' show any imminent threat of riot or uncontrollable disorder. It is neither unusual nor unexpected that some people at public street meetings mutter, mill about, push, shove, or disagree, even violently, with the speaker. Indeed, it is rare where controversial topics are discussed that an out-door crowd does not do some or all of these things. Nor does one isolated threat to assault the speaker forebode disorder. Especially should the danger be discounted where, as here, the person threatening was a man whose wife and two small children accompanied him and who, so far as the record shows, was never close enough to petitioner to carry out the threat.

"Moreover, assuming that the 'facts' did indicate a critical situation, I reject the implication of the Court's opinion that the police had no obligation to protect petitioner's constitutional right to talk."

In a separate dissenting opinion, Justice Douglas, joined by Justice Minton, declared:

"A speaker may not, of course, incite a riot any more than he may incite a breach of the peace by the use of 'fighting words'. But this record shows no such extremes. It shows an unsympathetic audience and the threat of one man to haul the speaker from the stage. It is against that kind of threat that speakers need police protection. If they do not receive it and instead the police throw their weight on the side of those who would break up the meetings, the police become the new censors of speech. Police censorship has all the vices of the censorship from city halls which we have repeatedly struck down."

4. If the person trying to express himself is not using "fighting words" do the police have a duty to protect the individual from a hostile audience? (discussion question)

Compare Gregory v. Chicago, 394 U.S. 111, 89 S.Ct. 946, 22 L.Ed. 134 (1969) with the Feiner case.

"Accompanied by Chicago police and an assistant city attorney, Gregory and others marched in a peaceful and orderly procession from city hall to the mayor's residence to press their claims for desegration of the public schools. As the demonstrators proceeded, the number of bystanders increased and . . . language and conduct became rougher and tougher. Fearful that the threatening crowd might not be able to be contained much longer, the police asked the marchers to leave the area. They refused and were arrested for violating a 'disorderly conduct' ordinance. In reversing the conviction, the Court observed that **there was no evidence in the record that petitioners' conduct was disorderly. Therefore (under Thompson v. Louisville, 362 U.S. 199, 80 S.Ct. 624, 4 L.Ed. 2d 654 (1960)), convictions so totally devoid of evidentiary support violate due process.**"

Black, J., joined by Douglas, J., concurred in Gregory:

"Both police and demonstrators made their best efforts faithfully to discharge their responsibilities . . ., but they were nevertheless unable to restrain these hostile hecklers within decent and orderly bounds. These facts disclosed by the record point unerringly to one conclusion, namely, that when groups with diametrically opposed, deep-seated views are permitted to air their emotional grievances, side-by-side, on city streets, tranquility and order cannot be maintained even by the joint efforts of the finest and best officers and of those who desire to be the most law-abiding protestors of their grievances . . ."

In agreeing to the reversal of these convictions because the ordinance was over-broad, Black said:

". . . I wish once more to say that I think our Federal Constitution does not render the states powerless to regulate the conduct of demonstrators and picketers, conduct which is more than 'speech', more than 'press', more than 'assembly', and more than 'petition' as those terms are used in the First Amendment. Narrowly drawn statutes regulating the conduct of demonstrators and picketers are not impossible to draft. To say that the First Amendment grants broad rights (to march and demonstrate) free from any exercise of governmental power to regulate conduct, as distinguished from speech, press, assembly, or petition, would subject all the people of the Nation to the uncontrollable whim and arrogance of speakers, and writers, and protesters, and grievance bearers."

5. What about this third category (see "F" above) in relation to the operation of schools?

   a. In Tinker v. Des Moines School District, 393 U. W. 503, 89 S.Ct. 733, 21 L.Ed. 2d 731 (1969), a group of students decided to wear black armbands to protest the Vietnam War. Principals of the Des Moines schools made a regulation that any student who wore an armband must remove it or be suspended until they did. Some students were suspended. There was no disruption when the students wore the armbands. The Supreme Court said neither students nor teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. And,

"Certainly where there is no finding and no showing that the exercise of the forbidden right would 'materially and substantially interfere with the requirements of appropriate discipline in the operation of the school', the prohibition cannot be sustained."

b. Consider in relation to the Gregory case what a federal district court judge said in a Mississippi case.

"In Stacy v. Williams, 306 F. Supp. 963 (N.D. Miss. 1969), the Court struck down a proposed regulation for off-campus speakers at state colleges providing that 'no person shall be permitted to use (state college facilities) **whose presence** will constitute a clear and present danger of inciting a riot on any campus thereof.' (Emphasis by the Court.) Judge Keady observed: 'One simply cannot be restrained from speaking, and his audience cannot be presented from hearing him, unless the feared result is likely to be engendered by what the speaker himself says or does. In such circumstances envisioned by this proposed regulation, attendant law enforcement officers must quell the mob, not the speaker."

III. THE RIGHT TO VOTE. STATES SET VOTING QUALIFICATIONS. IN GENERAL, ANYONE WHO FULFILLS AGE AND COMPETENCY REQUIREMENTS AND HAS NOT BEEN CONVICTED OF A FELONY MAY VOTE. HOWEVER, THIS WAS NOT ALWAYS THE CASE.

A. Women.

It may be interesting to note a Supreme Court case that arose in Missouri. Minor v. Happersett, 21 Wall 162 (1875).
The Missouri Constitution provided: "Every male citizen of the United States . . . shall be entitled to vote." In this respect it was no different than any other state constitution of that period. Mrs. Virginia Minor, president of the Missouri Women's Sufferage Association, attempted to register in St. Louis. She was turned away and brought suit. She based her case on the Fourteenth Amendment's "privileges and immunities" clause claiming that it included the right to vote.

The United States Supreme Court held that the state had the right to exclude women from voting because the United States Constitution left the qualification of voters to the states.

Of course, women were granted the vote in 1920 with the addition of the Nineteenth Amendment to the United States Constitution.

B. Negroes.

Smith v. Allwright, 321 U. S. 649, 64 S.Ct. 757, 88 L.Ed. 987 (1944).

In 1927, the Supreme Court held that a Texas statute barring Negroes from voting in the Democratic party primaries was violative of the "equal protection" clause of the Fourteenth Amendment. Nixon v. Herndon, 273 U.S. 536, 47 S.Ct. 446, 71 L.Ed. 759 (1927).

The Texas Legislature promptly gave the Democratic party's executive committee the power to set qualifications for voters. Negroes were again excluded.

The Supreme Court found that the committee's act of exclusion was "state action" violative of the Fourteenth Amendment. Nixon v. Condon, 286 U.S. 73, 52 S.Ct. 484, 76 L.Ed. 984 (1932)

Then, the state Democratic Convention passed a resolution that all white citizens were eligible for membership and if they joined could vote in the primaries. The Supreme Court upheld this as "private action". Grovey v. Townsend, 295 U.S. 45, 55 S.Ct. 662, 79 L.Ed. 1292 (1935).

This same arrangement was attacked in the Smith case. However, this time the Supreme Court reversed itself and found that the acts of the party convention were "state action" and were violative of the Fifteenth Amendment.

C. Other cases.

Harper v. Virginia Board of Elections, 383 U.S. 663, 86 S.Ct. 1079, 16 L.Ed. 2d 169 (1966). (poll tax)

Williams v. Rhodes, 393 U.S. 23, 89 S.Ct. 5, 21 L.Ed. 2d 69 (1968). (state requirements for gaining a place on the presidential ballot)

IV. OTHER FUNDAMENTAL RIGHTS.

There are other rights which, while not enumerated in the Constitution, emanate from it. As Justice Douglas said in the majority opinion of Griswold, they form a penumbra around the Bill of Rights and help give men life and substance.

"The association of people is not mentioned in the Constitution nor in the Bill of Rights. The right to educate a child in a school of the parents' choice — whether public or private or parochial — is also not mentioned. Nor is the right to study any particular subject or any foreign language. Yet the First Amendment has been construed to include certain of those rights."

Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965).

A. Privacy.

Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965). A statute barring the use of contraceptives to prevent conception and one barring counseling or aiding and abetting persons in the use of contraceptives was found unconstitutional. The Majority Opinion, per Douglas, J., stated that "the zone of privacy created by several fundamental guarantees". The opinion also said of privacy:

"Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one, as we have seen. The Third Amendment in its prohibition against the quartering of soldiers 'in any house' in time of peace without the

consent of the owner is another facet of that privacy. The Fourth Amendment explicitly affirms the 'right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.' The Fifth Amendment in its Self-Incrimination Clause enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: 'The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people'."

B. Education.

"By Pierce v. Society of Sisters, 268 U.S. 510, 45 S.Ct. 571, 69 L.Ed. 1070, the right to educate one's children as one chooses is made applicable to the states by the force of the First and Fourteenth Amendments. By Meyer v. Nebraska, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed. 1042, the same dignity is given the right to study the German language in a private school. In other words, the State may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge. The right of freedom of speech and press includes not only the right to utter or to print, but the right to distribute the right to receive, the right to read (Martin v. Struthers, 319 U.S. 141, 143, 63 S.Ct. 862, 863, 87 L.Ed. 1313) and freedom of inquiry, freedom of thought and freedom to teach (See Wieman v. Updegraff, 344 U.S. 183, 195, 73, S.Ct. 215, 220, 97 L.Ed. 216) — indeed the freedom of the entire university community. Sweezy v. New Hampshire, 354 U.S. 234, 249-250, 261-263, 77 S.Ct. 1203, 1211, 1217-1218, 1 L.Ed. 2d 1311; Barenblatt v. United States, 360 U.S. 109, 112, 79 S.Ct. 1081, 1085, 3 L.Ed. 2d 1115; Baggett v. Bullitt, 377 U.S. 360, 369, 84 S.Ct. 1316, 1321, 12 L.Ed. 2d 377. Without those peripheral rights the specific rights would be less secure."

C. Association.

"In NAACP v. Alabama, 357 U.S. 449, 462, 78 S.Ct. 1163, 1172, The Supreme Court protected the 'freedom to associate and privacy in one's associations, noting that freedom of association was a peripheral First Amendment right. Disclosure of membership lists of a constitutionally valid association, was held invalid . . . In other words, the First Amendment has a penumbra where privacy is protected from governmental intrusion. In like context, The Court has protected forms of 'association' that are not political in the customary sense but pertain to the social, legal and economic benefit of the members. NAACP v. Button, 371 U.S. 415, 430-431, 83 S.Ct. 328, 336-337. While (association) is not expressly included in the First Amendment its existence is necessary in making the express guarantees fully meaningful.

"The foregoing cases suggest that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance."

D. Travel.

In Aptheker v. Secretary of State, 378 U.S. 500, 84 S.Ct. 1659, 12 L.Ed. 2d 992 (1964), the State Department refused passports to leaders of the American Communist Party based on a statute that disallowed them to travel unless they registered as communists. The Court said:

"Since 'freedom of travel' is a constitutional liberty closely related to rights of free speech and association, we believe that appellants in this case should not be required to assume the burden of demonstrating that Congress could not have written a statute constitutionally prohibiting their travel."

In Zemel v. Rusk, 381 U.S. 1, 85 S.Ct. 1271, 14 L.Ed. 2d 179 (1965), the State Department refused to issue passports to U. S. citizens for travel to Cuba "unless specifically endorsed (by) the Secretary of State." Zemel wanted a passport to go to Cuba to satisfy his "curiosity about the state of affairs in Cuba and to make (himself) a better informed citizen." The Court, per Warren, C. J., affirmed the denial of his request.

"The right to travel within the United States is, of course, constitutionally protected. But that freedom does not mean that areas ravaged by flood, fire or pestilence cannot be quarantined when it can be demonstrated that unlimited travel to the area would directly and materially interfere with the safety and welfare of the area of the Nation as a whole. So it is with international travel...That the restriction which is challenged in this case is supported by the weightiest considerations of national security is perhaps best pointed up by recalling that the Cuban missile crisis of October, 1962, preceded the filing of appellant's complaint by less than two months."

C. RESOURCES FOR TEACHING LAW

In addition to the units of study provided in this guide (See Section A - Teaching/Learning Exercises on Law) teachers are referred to the list which follows for some resources they should find to be helpful as they begin to plan for teaching about law in the American society.

FILMS

Name of Film	Catalog No.
Law and the Citizen - Contract Law	16185
There Is a Law Against It	61500
Basic Law Terms	12453
Bill of Rights in Action - The Right to Privacy	28200
Changing the Law	24638
The Criminal Justice System	13761
Equality Under Law - The California Fair Housing Cases	11260
The First Freedom	72111
Free Press vs. Fair Trial by Jury - The Sheppard Case	11250
Government and Law	10580
House Divided: Change & Reform, Part I	25973
House Divided: Lobbies & Critics, Part II	25974
In Search of Justice	16211
Interrogation and Counsel (Bill of Rights Series)	25993
Jury & Juror - Function & Responsibility	12913
Justice Delayed, Justice Denied	16731
Milwaukee County Government Report	17991
Presumption of Innocence	17472
Prison Film - Still Living	13730
Right to Legal Counsel	12912
Some Are More Equal Than Others	17473
Why We Have Laws - Shiver, Gobble and Snore	12883

Teachers should refer to the MPS Film Catalog for detailed information on each of these audio-visual aids.

FIELD EXPERIENCES

#1 Field Experience
Milwaukee County Courthouse
901 North 9th Street

Safety Building (No jail tours on Tuesday and Thursday)
821 West State Street

Arrangements for group tours and inquiry into specific court proceedings and room numbers can be made through the Buildings and Grounds Division of the Milwaukee County Courthouse, Telephone 278-4971. (A.M. - Tuesday, Wednesday, Thursday is considered the best time for visitation to courts.)

The weekly and daily court calendars can be obtained at the Central Information desk in the Courthouse or from the Clerk of Courts, Room 511, Courthouse. (Civil Calendar - Room 104)

#2 Field Experience
City of Milwaukee
818 West Wisconsin Avenue (Public Library Building)
Telephone 278-3800
Court Administrator: Ms. Rose Nugent

Hours: 8:30 A.M. to 11:30 A.M. and 1:30 P.M. to 4:00 P.M.

Municipal courts are divided into two divisions — intake and trial. A brief explanation of the judges' duties and the newly-established computerized record keeping system will be provided by the Court Administrator. Since the courtroom capacity is limited, it is best to schedule students in small groups on a rotating basis.

#3 Field Experience
Milwaukee County Jail
821 West State Street
Telephone 278-5135
Jailor: Captain Mooney
Sheriff William Klamm

Although both state law and the rights of privacy forbid the touring of the jail when inmates are present, it is occasionally possible to visit an empty tier and observe some of the entry and holding rooms. Personal contact with the jailor is the best method of inquiry to pursue. If a tour is not possible, a conference with the head jailor may be arranged together with a demonstration of the booking and record keeping equipment.

#4 Field Experience
Sheriff's Training School
821 West State Street
Training/Policy Unit
Telephone 278-5135
Instructor: Lt. Sheriff Tessman

Arrangements may also be made through Building and Grounds, County Courthouse, Telephone 278-4971.

A visit to the training school will include a slide/lecture by the Training School instructor. The students will learn of the many and varied duties of the Milwaukee County Sheriff's Department as well as the nature of the training received and eligibility requirements.

#5 Field Experience
Police Administration Building
749 West State Street

A letter must be directed to Chief Harold Breier including the dates, the number of students and grade level approximately three to four weeks in advance. The 1½ hour tour includes an explanation of routine police assignments, a visit to the City Jail, observation of the police communications system, demonstration of motor vehicle registration checks, and demonstrations of the computerized suspect-identification techniques.

#6 Field Experience
Safety Training Academy (Police and Fire)
6680 North Teutonia Avenue
Telephone 273-8660

A letter must be directed to Chief Harold Breier which includes the date, number of students, and grade level several weeks in advance. The two-hour tour includes a full examination and demonstration of the training necessary for City of Milwaukee police cadets. The students are shown simulated crime scenes, accidents, and other incidents for which police officers must be trained.

#7 Field Experience
Wisconsin Supreme Court
State Capitol, Madison, Wisconsin
Telephone 1-608-266-1887
Contact: Mr. Robert Uehling, Clerk of the Supreme Court

Oral arguments are heard by the Supreme Court during the first week of every month. Arrangements for a group visit (limited to 50) may be made by contacting the Clerk of the Supreme Court in writing with notice of the date, the size of the group, and the duration of the visit. It is suggested that the instructor obtain copies of the briefs to be presented to the court

and that he/she review the briefs with the class prior to the visit to the court. State representatives may be a particularly useful source of such material.

#8 Field Experience
Common Council of Milwaukee
City Hall, 200 East Wells Street
Telephone 278-2221

The schedule for full council and standing committee meetings is printed in the Sunday Milwaukee Journal, Local Section.

#9 Field Experience
County Board of Supervisors
County Courthouse, 901 North 9th Street
Telephone 278-4277
Central Services Department - Tour Guide 278-4971

Schedule of Board and Committee Meetings may be obtained from the County Clerk, Room 101.

#10 Speaker or Field Experience
Better Business Bureau
174 West Wisconsin Avenue
Telephone 273-4300

Speakers or tours for small groups may be arranged with advance notice. Also, printed materials on consumer problems and services are available.

In planning for law-related field experiences, teachers should follow normal field trip planning procedures.

SPEAKERS BUREAU

Teachers can obtain the services of an attorney/speaker from the Milwaukee Young Lawyers' Association by calling Ms. Judy Cohen at 351-5821.

D. INCORPORATING LEGAL CONCEPTS INTO THE STANDARD CURRICULUM

The material which follows identifies places that legal concepts can be incorporated into the standard course offerings of the Milwaukee Public Schools social studies curriculum. While it would be impossible to cite all possible legal concepts or all of the places that these ideas could be incorporated into the curriculum, the lists should: 1) demonstrate the pervasive relevancy of legal concepts to the ongoing social studies program, and 2) provide teachers with specificity as to places they can begin to incorporate law into their teaching.

It should be noted that frameworks of legal concepts have not been developed for Justice and You, American Political Relations, or Urban Citizenship courses since the primary purpose of these offerings is to explore the structure and function of law in American society.

HIGH SCHOOL LEVEL

"LAW AND ME" -- CURRICULUM PLANNING WORKSHEET World History

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Rules/Law	A regulation or standard to be followed.	First Civilizations	Early Egypt Hammurabi's Code Law of Twelve Tables
		World of Christendom	Koran Old and New Testament
		Age of Revolution	Napoleonic Codes
Authority	The power to issue and enforce orders.	First Civilizations	Pharaohs
Social Contract	An implied agreement among people that is the basis for all democratic societies. People give up some of their freedom in return for certain advantages to be derived from living in an organized society.	First Civilizations	Hammurabi's Code
		Classical Civilizations	Democracy - Greece Republic
		World of Christendom	Feudalism
		Age of Reason	Rousseau John Locke Montesquieu Voltaire
Conflict Resolution	Settling disputes between two or more parties.	Classical Civilizations	Hellenic Period - Leagues Tribunes
		Global Society	League of Nations United Nations International Court Treaties Trade Agreements

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HIGH SCHOOL LEVEL

"LAW AND ME" -- CURRICULUM PLANNING WORKSHEET World History

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Leaders	Individuals who are identified to give direction or guidance to various types of groups.	First Civilizations	King Menes Pharaohs Hammurabi
		Classical Civilizations	Pericles Plato Aristotle
		World of Christendom	Justinian Mohammad
		Early Africa	Mansa Musa
		Incas	Atahualpa
		Asia India China	Firuz Shah Sultanate Ghenghis Kahn
		Global Society	W. Churchill, Sun Yat-Sen, C. DeGaulle, G. Nasser, F. D. Roosevelt, G. Meier, J. Nehru, A. Sadat, M. Gandi
Rights	Legally enforceable claims or privileges.	Developing Nations	Magna Carta Bill of Rights of 1689 Constitution - Bill of Rights
Responsibilities	Accountability for one's conduct and the proper performance of one's duties.	First Civilizations Developing Nations	Hammurabi's Code Magna Carta

HIGH SCHOOL LEVEL

"LAW AND ME" -- CURRICULUM PLANNING WORKSHEET World History

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Justice/due process	To settle conflicting claims or assign reward or punishments in a fair and adequate way.	First Civilizations Developing Nations Global Society	Hammurabi's Code Magna Carta Constitution - Bill of Rights League of Nations United Nations International Court Sanctions
Equality	A principle which asserts the fundamental, similar worth of every human being.	Classical Civilizations Developing Nations	Democracy Magna Carta John Locke Montesquieu
Freedom	The right to act or make decisions without external coercion.	Classical Civilizations	Democracy
Property	The right to possess and enjoy something of economic value.	Classical Civilizations	Property Rights
Legal system	The totality of agencies and procedures which are established by a society to insure the administration of justice. (Includes the legislative, executive, and judicial branches of government at the national, state, and local levels.)	Developing Nations Global Society	Magna Carta Parliament Spirit of Laws - Montesquieu Estates General Legislative Assembly United Nations Individual Nations - Governmental Structure

HIGH SCHOOL LEVEL

"LAW AND ME" -- CURRICULUM PLANNING WORKSHEET United States History

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Rules/Law	A regulation or standard to be followed.	Colonization Industrialization and Expansion	Mayflower Compact, Fundamental Orders of Connecticut Regulatory Agencies
Authority	The power to issue and enforce orders.	Our Federal Government	Articles of Confederation Constitution Congress Executive Department
Social Contract	An implied agreement among people that is the basis for all democratic societies. People give up some of their freedom in return for certain advantages to be derived from living in an organized society.	Colonization Our Federal Government	Mayflower Compact John Locke Montesquieu Articles of Confederation Constitution Bill of Rights Amendments
Conflict Resolution	Settling disputes between two or more parties.	Our Federal Government World Leadership	Treaties Judicial System United Nations Declaration of Human Rights Treaties

HIGH SCHOOL LEVEL

"LAW AND ME" -- CURRICULUM PLANNING WORKSHEET United States History

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Leaders	Individuals who are identified to give direction or guidance to various types of groups.	Incorporated in more than one unit.	T. Jefferson J. Madison G. Washington A. Jackson A. Lincoln Booker T. Washington W. H. Taft W. Wilson S. Gompers W. Green J. L. Lewis T. Roosevelt F. D. Roosevelt H. Truman B. Friedan T. Marshall R. Wilkins C. Chavez G. Steinem M. L. King
Rights	Legally enforceable claims or privileges.	Our Federal Government Reconstruction Modern Era	Constitution Bill of Rights Amendments Civil Rights Acts of 1875, 1964 and other Civil Rights legislation to include specific court cases. Such as: Plessy V. Ferguson Brown V. Topeka Board of Education Gaines V. Canada McLaurin V. Oklahoma

HIGH SCHOOL LEVEL

"LAW AND ME" -- CURRICULUM PLANNING WORKSHEET United States History

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Responsibilities	Accountability for one's conduct and the proper performance of one's duties.	Colonization Industrialization and Expansion	Mayflower Compact Anti-trust Laws Labor Laws
Justice/due process	To settle conflicting claims or assign rewards or punishments in a fair and adequate way.	Colonization Industrialization and Expansion Reconstruction Varies	Mayflower Compact Constitution Bill of Rights, Amendments Anti-trust Laws Amendments Judicial System
Equality	A principle which asserts the fundamental, similar worth of every human being.	Colonization Our Federal Government Developing the Nation Civil War Reconstruction	Mayflower Compact Maryland Toleration Act Declaration of Independence Bill of Rights, Amendments Constitution Amelia Bloomer Dorothea Dix Lucretia Mott Dred Scott — H. B. Stowe Abolitionists — A. Lincoln W. L. Garrison — Emancipation Proclamation H. Tubman F. Douglass Ammendments Frederick Douglass Jane Addams B. T. Washington

HIGH SCHOOL LEVEL

"LAW AND ME" -- CURRICULUM PLANNING WORKSHEET United States History

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Equality		Industrialization and Expansion	Elizabeth Blackwell Belva Lockwood Granger Movement Progressive Movement Consumer Legislation Regulation Federal Agencies
		New Deal	New Deal Legislation Labor Legislation
		World Leadership	Immigration Policies Equal Rights Amendment Declaration of Human Rights
Freedom	The right to act or make decisions without external coercion.	Our Federal Government	Constitution Amendments Zenger Trial Bill of Rights
Property	The right to possess and enjoy something of economic value.	Our Federal Government	Constitution Declaration of Independence
		World Leadership	Economic Opportunity Act Economic Security
Legal system	The totality of agencies and procedures which are established by a society to insure the administration of justice. (Includes the legislative, executive, and judicial branches of government at the national, state, and local levels.)	Colonization	House of Burgesses Articles of Confederation
		Our Federal Government	Legislative Department Executive Department Judicial Department John Jay John Marshall Governmental Agencies

HIGH SCHOOL LEVEL

"LAW AND ME" — CURRICULUM PLANNING WORKSHEET Sociology

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Rules/Laws	A regulation or standard to be followed.	Socialization	Culture and socialization folkways, mores, laws
Authority	The power to issue and enforce orders.	Social institutions	Governmental functions
Social Contract	An implied agreement among people that is the basis for all democratic societies. People give up some of their freedom in return for certain advantages to be derived from living in an organized society.	Social interaction Social institutions	Group interaction Social control Political sociology
Conflict Resolution	Settling disputes between two or more parties.	Social interaction Social institutions	Cooperation, conflict and competition Governmental functions
Leaders	Individuals who are identified to give direction or guidance to various types of groups.	Social organization Social institutions	Roles Status Work organizations Bureaucratic organization Economic system
Rights	Legally enforceable claims or privileges.	Social institutions	Governmental functions Power Authority

HIGH SCHOOL LEVEL

"LAW AND ME" — CURRICULUM PLANNING WORKSHEET Sociology

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Responsibilities	Accountability for one's conduct and the proper performance of one's duties.	Social organization	Socialization Status Rules Punishment Rewards
Justice/due process	To settle conflicting claims or assign rewards or punishments in a fair and adequate way.	Social institutions	Governmental functions
Equality	A principle which asserts the fundamental, similar worth of every human being.	Social institutions	Equality
Freedom	The right to act or make decisions without external coercion.	Social organization Social interaction	Roles Status Social control - deviation Conformity - individuality
Property	The right to possess and enjoy something of economic value.	Social institutions	Economic goals, systems
Legal system	The totality of agencies and procedures which are established by a society to insure the administration of justice. (Includes the legislative, executive, and judicial branches of government at the national, state, and local levels.)	Social interaction Social institutions	Social control Governmental functions and organization

HIGH SCHOOL LEVEL

"LAW AND ME" -- CURRICULUM PLANNING WORKSHEET Urban Studies

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Rules/Laws	A regulation or standard to be followed.	Government and Its Role	Constitution Bill of Rights Amendments Statutes Ordinances Implied Powers Contracts Mores Licenses Charters
Authority	The power to issue and enforce orders.		Legislative Bodies Federal State Local Executive Departments Federal State Local Judicial System Federal State Local
Social Contract	An implied agreement among people that is the basis for all democratic societies. People give up some of their freedom in return for certain advantages to be derived from living in an organized society.		Declaration of Independence Representative Democracy Bill of Rights Constitution Federal State Local Amendments
Conflict Resolution	Settling disputes between two or more parties.		Public and Private Agencies Judicial System Federal State Local Cooperation Mediation Arbitration

HIGH SCHOOL LEVEL

"LAW AND ME" -- CURRICULUM PLANNING WORKSHEET Urban Studies

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Leaders	Individuals who are identified to give direction or guidance to various types of groups.		President, Mayor, Cabinet, Civil Leaders, Governor, Public and Private, County Executive, Agency Heads
Rights	Legally enforceable claims or privileges.		Constitution, Ordinances, Bill of Rights, Contracts, Amendments, Licenses, Statutes, Charters
Responsibilities	Accountability for one's conduct and the proper performance of one's duties.		Judicial System: Federal State Local; Licenses; Charters
Justice/due process	To settle conflicting claims of assign rewards or punishments in a fair and adequate way.		Judicial System: Federal State Local; Public and Private Agencies; Mediation; Arbitration
Equality	A principle which assets the fundamental, similar worth of every human being.		Declaration of Independence; Constitution: Federal State Local; Amendments; Tax Laws; Grants in Aid - Shared Revenue; Civil Rights Acts

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HIGH SCHOOL LEVEL

"LAW AND ME" -- CURRICULUM PLANNING WORKSHEET Urban Studies

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Freedom	The right to act or make decisions without external coercion.		Bill of Rights Amendments Economic Freedom
Property	The right to possess and enjoy something of economic value.		Economic Security Economic Freedom
Legal System	The totality of agencies and procedures which are established by a society to insure the administration of justice. (Includes the legislative, executive, and judicial branches of government at the national, state, and local levels.)		Legislature City Council County Board Legislative Department Executive Department Judicial Department

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HIGH SCHOOL LEVEL

"LAW AND ME" — CURRICULUM PLANNING WORKSHEET World Geography

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Rules/Laws	A regulation or standard to be followed.	People and Their Government	Politics and Government (individual nations)
Authority	The power to issue and enforce orders.	People and Their Government	Authority figures, leaders of individual nations
Social Contract	An implied agreement among people that is the basis for all democratic societies. People give up some of their freedom in return for certain advantages to be derived from living in an organized society.	Cradle of Civilization Challenges to the World's People	Democracy Conservation Treaties Constitution of Individual Nations
Conflict Resolution	Settling disputes between two or more parties.	Challenges to the World's People	Cooperation Compromise Agencies United Nations Treaties
Leaders	Individuals who are identified to give direction or guidance to various types of groups.	A World Leader	American world leaders Business Science Inventors Social
Rights	Legally enforceable claims or privileges.	Challenges to a World's People	Treaties

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HIGH SCHOOL LEVEL

"LAW AND ME" — CURRICULUM PLANNING WORKSHEET **World Geography**

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Responsibilities	Accountability for one's conduct and the proper performance of one's duties.	Challenges to a World's People	Conservation
Justice/due process	To settle conflicting claims or assign rewards or punishments in a fair and adequate way.	Challenges to the World's People	International organizations
Equality	A principle which asserts the fundamental, similar worth of every human being.	Challenges to a World's People	Agencies Foundations
Freedom	The right to act or make decisions without external coercion.		Economic Freedom
Property	The right to possess and enjoy something of economic value.		Economic Security
Legal system	The totality of agencies and procedures which are established by a society to insure the administration of justice. (Includes the legislative, executive, and judicial branches of government at the national, state, and local levels.)	Challenges to the World's People	International organizations, agencies Treaties

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HIGH SCHOOL LEVEL

"LAW AND ME" — CURRICULUM PLANNING WORKSHEET Economics

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Rules/Laws	A regulation or standard to be followed.	Price	Competition Monopoly Money
		Production	Business organization
Authority	The power to issue and enforce orders.	Government	Role of Government Taxes
		Money - Credit	Money Regulation
Social Contract	An implied agreement among people that is the basis for all democratic societies. People give up some of their freedom in return for certain advantages to be derived from living in an organized society.	Economic System	Economic goals
Conflict Resolution	Settling disputes between two or more parties.	Price	Competition Monopoly Mediation Arbitration Consumer Agencies
Leaders	Individuals who are identified to give direction or guidance to various types of groups.	Distribution of National Income	Labor unions Captains of industry
Rights	Legally enforceable claims or privileges.	Economy System Distribution of National Income	Economic goals Distribution of income Land Labor Capital Management

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HIGH SCHOOL LEVEL

"LAW AND ME" — CURRICULUM PLANNING WORKSHEET Economics

Principles Undergirding the American Legal System	Definition	Applicable to: Course/Units and/or Grade Levels	Specific Topics
Responsibilities	Accountability for one's conduct and the proper performance of one's duties.	Production	Business organization Marketing Purchasing
Justice/due process	To settle conflicting claims or assign rewards or punishments in a fair and adequate way.	Price	Competition Monopoly Public Agencies Judicial System Consumer Protection
Equality	A principle which asserts the fundamental, similar worth of every human being.	Economic system	Economic freedom Economic justice Equity
		Distribution of National Income	National income
		Economic Problems	Social programs
Freedom	The right to act or make decisions without external coercion.	Economic System	Economic freedom Specialization
Property	The right to possess and enjoy something of economic value.	Economic System	Economic freedom Economic security
Legal system	The totality of agencies and procedures which are established by a society to insure the administration of justice. (Includes the legislative, executive, and judicial branches of government at the national, state, and local levels.)	Government Economic Problems	Government - role of Consumer agencies and protection Private agencies Judicial System Public Agencies

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Attachment I

Report of the Superintendent to the Instruction Committee

(ITEM 4) RESOLUTION BY DIRECTOR KONEAZNY TO DEVELOP "THE LAW AND ME" AS A SCHOOL-YEAR THEME

A. Pertinent Facts: ATTACHMENT, PAGE 77

1. At its meeting on May 25, 1982, the Board referred the following Resolution, introduced by Director Koneazny, to the Superintendent and the Instruction Committee:

"WHEREAS, There is a severe breakdown in acceptable behavior in the Milwaukee Public Schools that reflects the larger society; and

"WHEREAS, It is inappropriate and unconstitutional to teach any particular system of values or morals in a public school; and

"WHEREAS, There is a need for an acceptable code of conduct for each school community; and

"WHEREAS, The law is the mandated code of behavior in this democratic society; therefore, be it

"RESOLVED, That the 1982-1983 school year have as a theme "The Law and Me"; and be it

"FURTHER RESOLVED, That all parents of students and faculty be asked to assist in addressing the question of law and appropriate behavior through various subject areas and other school related activities; and be it

"FURTHER RESOLVED, That Curriculum and Instruction support this activity with the purpose of developing a curriculum of the law as a code of conduct."

2. At its June 14, 1982 (Proc., p.), the Instruction Committee recommended that this Resolution be returned to the Administration for further study and an expanded recommendation.

B. Recommendations:

1. The Administration concurs with the intent of this Resolution and will initiate a "Law and Me" Program during the 1982-1983 school year.

2. The following actions have or will be taken to implement this program:

a. Norman Gross, Staff Director of the American Bar Association's (ABA) Special Committee on Youth Education for Citizenship, and Charlotte Anderson, Coordinator of the "Law and the Humanities: Designs for Elementary Education" Project of the ABA, have met with staff members from the Division of Curriculum and Instruction and have identified resource specialists and curriculum materials that may be of help in the task at hand. Although existing programs do not have identical objectives to those sought for the Milwaukee Public Schools, they should provide useful ideas and teaching/learning activities.

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b. A framework of approximately 40 legal concepts designed to assist students in the establishment of a personal code of conduct will be developed and implemented across all curricular areas on a kindergarten - grade twelve (K-12) basis during the 1982-1983 school year. (See the attachment.) In subsequent years, these concepts and the related instructional materials and procedures will be updated and incorporated as a permanent part of the ongoing curriculum.

c. A city-wide poster contest related to the "Law and Me" theme will be initiated during the1982-1983 school year. Special art exhibits featuring some of the entries in this contest will be established in the lobby of the School Administration Building and other sites in the community.

d. Each principal will be asked to initiate at least one school-wide activity from a list of approved options related to the "Law and Me" theme. These activities could well involve local Parent-Teacher Associations and community groups, such as the Milwaukee Bar Association and the Lawyers' Wives of Greater Milwaukee.

3. The Administration will provide the Board with a summary report on the "Law and Me" Program in Spring of 1983.

* * * * *

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940.225 Sexual assault. (1) FIRST DEGREE SEXUAL ASSAULT. Whoever does any of the following is guilty of a Class B felony:

(a) Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.

(b) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.

(c) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(d) Has sexual contact or sexual intercourse with a person 12 years of age or younger.

(2) SECOND DEGREE SEXUAL ASSAULT. Whoever does any of the following is guilty of a Class C felony:

(a) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(b) Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.

(c) Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.

(d) Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.

(e) Has sexual contact or sexual intercourse with a person who is over the age of 12 years and under the age of 18 years without consent of that person, as consent is defined in sub. (4).

(3) THIRD DEGREE SEXUAL ASSAULT. Whoever has sexual intercourse with a person without the consent of that person is guilty of a Class D felony.

(3m) FOURTH DEGREE SEXUAL ASSAULT. Whoever has sexual contact with a person without the consent of that person is guilty of a Class A misdemeanor.

(4) CONSENT. "Consent", as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. A person under 15 years of age is incapable of consent as a matter of law. The following persons are presumed incapable of consent but the presumption may be rebutted by competent evidence, subject to the provisions of s. 972.11 (2):

(a) A person who is 15 to 17 years of age.

(b) A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct.

(c) A person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(5) DEFINITIONS. In this section:

(a) "Sexual contact" means any intentional touching of the intimate parts, clothed or unclothed, of a person to the intimate parts, clothed or unclothed, of another, or the intentional touching by hand, mouth or object of the intimate parts, clothed or unclothed, of another, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification or if the touching contains the elements of actual or attempted battery under s. 940.19 (1).

(b) "Sexual intercourse" includes the meaning assigned under s. 939.22 (36) as well as cunnilingus, fellatio, anal intercourse or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening of another, but emission of semen is not required.

(6) NO PROSECUTION OF SPOUSE. No person may be prosecuted under this section if the complainant is his or her legal spouse, unless the parties are living apart and one of them has filed for an annulment, legal separation or divorce.

History: 1975 c. 184, 421; 1977 c. 173; 1979 c. 24, 25, 175, 221.

Failure to resist is not consent under (4). State v. Clark, 87 W (2d) 804, 275 NW (2d) 715 (1979).

Multiplicitous rape charges discussed. Harrell v. State, 85 W (2d) 546, 277 NW (2d) 462 (1979).

Injury by conduct regardless of life is not a lesser-included crime of first-degree sexual assault. Hagenkord v. State, 94 W (2d) 250, 287 NW (2d) 534 (Ct. App. 1979).

Conviction on 2 counts of rape, where offenses occurred 25 minutes apart in same location, did not violate double jeopardy provisions of U.S. Constitution. Harrell v. Israel, 478 F Supp. 752 (1979).

Conviction for attempted first degree sexual assault based on circumstantial evidence did not deny due process. Upshaw v. Powell, 478 F Supp. 1264 (1979).